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THE UNIVERSITY OF ALBERTA

THE ROLE OF THE STATE
IN
THE DEVELOPMENT OF TOWN PLANNING IN ENGLAND, 1875 - 1909

by

© ROBERT G.F. HIGGINS

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH

IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE

OF MASTER OF ARTS

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THE UNIVERSITY OF ALBERTA

FACULTY OF GRADUATE STUDIES AND RESEARCH

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research, for acceptance, a thesis entitled THE ROLE OF THE STATE IN THE DEVELOPMENT OF TOWN PLANNING IN ENGLAND, 1875 - 1909 submitted by Robert G.F. Higgins in partial fulfilment of the requirements for the degree of Master of Arts.

Supervisor

Date July 31, 1980

To Laura

and my

Mother and Father

ABSTRACT

The establishment of town planning as a State activity in Britain as signified by the Housing, Town Planning, Etc. Act of 1909, is generally and uncritically seen as the beginning of a new social reform movement advancing freedom and democracy. But this conception of planning has been severely questioned. Little attempt has been made to explain how the conception of planning as a new social movement evolved from the mid-nineteenth century utilitarian beginnings of State intervention in the urban environment. In 1875, the first clearly recognizable example of town planning legislation was enacted. From this date, the State increasingly intervened in private rights regarding the physical environment in the name of the public welfare. This thesis examines the evolving legislation and the surrounding Parliamentary debates in terms of the debate on planning and freedom.

From 1875, the legislation furthered the power of the State over private rights, and increased centralization and the power of the non-elected official even though this development conflicted with prevailing conceptions of individual and political freedom. The key factor impelling this development was the adherence to the utilitarian ethic which conceived the public welfare in terms of efficiency. This was the ethic on which the Act of 1909 was based. The Act signified no break with the utilitarian tradition of reform. Indeed, the utilitarian ethic, characterized by efficiency, has continued to guide the operation of town planning to this day.

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TABLE OF CONTENTS

		PAGE
ABSTRACT		v
ACKNOWLEDGEMENTS		vi
TABLE OF CONTENTS		vii
CHAPTER		
I	INTRODUCTION	1
	A. Notes and References to Chapter I	6
II	SOME VIEWPOINTS ON PLANNING AND FREEDOM AND THE DEVELOPMENT OF TOWN PLANNING	7
	A. The Planning Theoreticians on Planning and Freedom	7
	B. The Incompatability of Planning with Freedom and Democracy	13
	C. The Planning Historians	19
	D. Establishing Criteria to Evaluate the Developing Planning Legislation	23
	E. Notes and References to Chapter II	26
III	THE UTILITARIAN RATIONALE AND THE ORIGINS OF THE IDEA OF TOWN PLANNING 1836 - 1875	29
	A. An Incontrovertible Standard: The Utilitarian Principle	29
	B. The Utilitarian Origins of Planning Legislation	30
	1. Edwin Chadwick's Report on the Sanitary Condition of the Labouring Population of Great Britain, 1842	31
	2. The Legislative Response: the Public Health Act of 1848	36
	3. The Extension of Sanitary Reform	37
	C. Notes and References to Chapter III	42

CHAPTER		PAGE
IV	HOUSING LEGISLATION AND THE DEVELOPMENT OF TOWN PLANNING	45
	A. The Identification of Town Planning with Sanitary Reform and the Imperatives of Efficiency: The 1875 Cross Act and its Successors	46
	1. Conceptions of the Cross Act: The Parliamentary Debate	46
	2. The Terms of the Cross Act	55
	3. The Machinery of the Cross Act	58
	4. Evaluating the Cross Act	60
	B. Modification of the Cross Act	62
	1. The Artizans and Labourers Dwellings Improvement Act of 1879	62
	a. A Reaffirmation of the Sanitary Reform and Conception: the Parliamentary Debate	63
	2. A Parliamentary Inquiry into the operation of the Cross Act	64
	3. The Legislative Response: The Artizans Dwellings Act of 1882	67
	a. Evaluating the Act	68
	C. A Growing Concern: Housing in the Wider Context	69
	1. The Origins of the Royal Commission on the Housing of the Working Classes	71
	2. A Change of Emphasis: The Royal Commission on the Housing of the Working Classes 1885	74
	3. The Legislative Response: The Housing of the Working Classes Act of 1885	77
	a. The Terms of the Act	81
	b. Evaluating the Act	82
	D. A Consolidating Measure: The Housing of the Working Classes Act of 1890	83

CHAPTER		PAGE
IV	1. The Terms of the Act	84
	E. A Reaffirmation of Utilitarianism: The Housing Act of 1900	84
	1. The Demands of Efficiency	85
	2. The Hope of the Suburbs	88
	F. The Inter-Departmental Committee on Physical Deterioration	89
	G. The Housing Act of 1903: The Developing Powers of the Central Authority	92
	H. An Attempt to Solve the Urban Housing Problem by Improving Rural Housing	93
	I. The Housing and Town Planning Act, 1909	94
	1. The Bill	95
	2. The Debate	96
	3. The Provisions of the Act	99
	a. The Housing Provisions	99
	b. The Town Planning Provisions	101
	4. The Planning Procedure	102
	5. Evaluating the Act	104
	J. Conclusion	108
	K. Notes and References to Chapter IV	110
V	THE CONTRIBUTION OF RELATED AREAS OF PLANNING	118
	A. Public Health: The Consolidation of Regulation	118
	1. The Public Health Act of 1875	119
	2. Evaluating the Act	122
	3. Further Statutory Regulations	124

CHAPTER		PAGE
V	B. Pollution Control	125
	1. The Unregulated Period Before 1876	126
	2. The Rivers Pollution Prevention Act of 1876	128
	3. Further Proposals	130
	4. The Significance of the Legislation and Debate	132
	C. Commons and Outdoor Recreation	133
	1. The Commons Act of 1876: The Criterion of the Public Welfare	135
	a. The Parliamentary Debate	136
	b. The Enclosure Procedure	140
	c. Evaluating the Act	142
	2. Enclosure After the Commons Act of 1876	144
	3. Further Recreational Legislation	145
	D. Small Holdings and Allotments	146
	1. Preserving the Rural Order: The Allotments Act of 1887	147
	2. The Operation of the Act	149
	3. Tentative Small Holdings Legislation	150
	4. The Necessity for Stronger Legislation: The Small Holdings Act of 1907	152
	a. The Provisions of the Act	156
	b. Evaluating the Act	157
	E. Conclusion	158
	F. Notes and References to Chapter V	161

CHAPTER PAGE

VI CONCLUSION 165

A. Notes and References to Chapter VI 170

BIBLIOGRAPHY 171

CHAPTER I

INTRODUCTION

The emergence of modern town planning in Britain, as signified by the Housing, Town Planning, Etc. Act of 1909, is commonly seen by planning advocates and academics as initiating a new form of social organization in which the human values of freedom, democracy and equity were to be advanced. John Burns, who framed the Act, exemplified this conception of planning: "The object of the Bill is to provide a domestic condition for the people in which their physical health, their morals, their character, and their whole social condition can be improved".[1] But the idea of town planning, which for purposes of this thesis is defined as the responsibility of the State to regulate private decisions regarding the physical environment of the city for the public welfare, had been developing throughout the nineteenth century. It was first given legislative expression in sanitary reform legislation, beginning with the Public Health Act of 1848, which was the first national legislation directed towards improving the terribly insanitary and unhealthy urban environment of the time. Far from the social revolution hinted at by Burns in 1908, the rationale for this State intervention was based on a utilitarian compulsion to bring order and rationality where there was only chaos, and efficiency where there was only waste. This foundation was decisive: "To the Utilitarians", writes Eversley, "we owe the true origins of modern planning".[2] From the beginning, then, town planning conceived the public welfare in terms of a utilitarian ethic characterized by

the value of efficiency, and the Act of 1909, in its conception of the city and the public welfare, must be seen in the context of its long legislative evolution from this utilitarian origin. The central question is whether, for all the undoubted vision of men like Burns and his prophet, Ebenezer Howard, the founder of the garden city movement, the first town planning act was truly a radical break with the utilitarian tradition of reform.

It has also to be emphasized that the urban environment was only one of many objects of State intervention in the nineteenth century. Decade by decade, the State became increasingly involved in the economic and social life of the British nation, until, by the early years of the twentieth century, the essential structure of the modern state was established. In essence, however, in all its manifestations, this development had a single ethical outcome: it restricted the rights of the individual in the name of the public welfare. To understand the idea of town planning as an activity of the State therefore requires that this crucial tension between individual freedom and collective needs be addressed.

The growth of the State presents, in the words of one historian, "the prime historical question of the nineteenth century",[3] and it has given rise to an extensive literature.[4] None of it, however, addresses the planning theme directly, except through the sanitary and housing reform movements. The planning literature, on the other hand, makes naive assumptions about the way in which planning is believed to advance freedom and democracy, but, in practice, the tension between

planning and freedom remains unresolved. This is clearly evident in the Alberta Planning Act, 1977, which states that measures can be taken, in accordance with the Act, to regulate land use and improve the physical environment "without infringing on the rights of individuals except to the extent that is necessary for the greater public interest". (emphasis added). Individual freedom is still said to be the paramount value of our society but the whole purpose of the planning legislation is to frame techniques by which freedom is limited. The Act, itself, provides no clue to the bases of a reconciliation between public and private rights, since it is not grounded in an explicit conception of the public welfare, although the utilitarian doctrine of efficiency in the urban environment still seems to prevail.

PURPOSE OF THE THESIS

The purpose of the thesis is to contribute to an understanding of the nature of town planning in terms of the tension between planning and freedom. To satisfy this purpose, it is necessary to examine the evolving legislation and to understand the circumstances that gave rise to it, and the manner in which the legislators coped with the contradictions between State intervention and individual freedom. An analysis of the legislation is crucial, because it is the legislation, not the ideas of planning advocates, that guides the application of planning. To this end, the thesis is focused on legislative changes between 1875 and 1909, as the critical period for the early development of town planning. It begins with the Cross Act of 1875, which permitted local

authorities to redevelop specified urban areas according to a plan for the public welfare, and is the first national legislation dealing with a subject which can clearly be recognized as town planning. It ends with John Burns's Act of 1909 in which the term "town planning" was used for the first time.

Five categories of legislation suggested themselves as being particularly pertinent to the planning idea. They are: housing, public health, pollution control, commons and outdoor recreation, and small holdings. Each of these areas of legislation sought to optimize the social and economic resources of society for the public welfare by improving the physical environment by means which entailed restrictions on individual property rights. Housing was a direct concern of the Town Planning Act of 1909, as S.D. Adshead, an early planning authority, makes clear: "Without doubt the main objective of the Town Planning Act is to provide better housing conditions on land to be developed outside the town."[5] The other areas of legislation reinforced the concern of planning for a healthier and more efficient physical environment, either by cleansing it or by restricting its use in some way.

Various criteria with which to evaluate the legislation in terms of the debate on planning and freedom, will be established in the following chapter. The importance of the utilitarian contribution and the theme of efficiency has already been indicated, and will be discussed in more detail later. These themes will also be applied, where possible, to the parliamentary debate surrounding the legislation, since they permit some degree of order to be imposed on what is often

a poorly-connected string of diverse arguments. Inevitably, the use of predetermined categories involves an exclusion and channelling of the material, but this permits, for the purpose of the thesis, a more focused conception of the nature of town planning than would be the case if the material was left to 'speak for itself'.

The source material for evaluating the legislation will consist of the Public Statutes, the Parliamentary Papers and Hansard's Parliamentary Debates. This will be supplemented with secondary sources, where appropriate.

Organization of the Thesis

Chapter II will outline the debate on the nature of planning and establish criteria by which the evolving planning legislation can be evaluated in terms of this debate. Chapter III will discuss the rationale for the first State regulation of the urban environment and how that conception shaped later planning legislation. Chapter IV will evaluate how the housing legislation influenced the nature of town planning. Chapter V will discuss how the other areas of legislation reinforced the housing legislation since they reflected the same attitudes towards society and the urban environment. Chapter VI will present the conclusions.

NOTES AND REFERENCES TO CHAPTER I

1 Hansard, third series, (1908) CLXXXVIII, 949.

2 David Eversley, The Planner in Society: The Changing role of a Profession. London: Faber and Faber, 1973, p. 47.

3 Eric Evans (ed.), Social Policy 1830 - 1914. London: Routledge and Keegan Paul, 1978, p. 1.

4 For a discussion of this debate see Valerie Cromwell, 'Interpretations of Nineteenth-Century Administration: An Analysis', Victorian Studies, Vol. IX, 1966, pp. 245-255; Gillian Sutherland, 'Recent Trends in Administrative History', Victorian Studies, Vol. XIII, 1970, pp. 408-411; and A.J. Taylor, Laissez-faire and State Intervention in Nineteenth-Century Britain. London: Macmillan Press, 1972.

5 S.D. Adshead, 'The Town Planning Act: Its Administration and Possibilities', The Town Planning Review, Vol. 1, No. 1, 1910, p. 49.

CHAPTER II

SOME VIEWPOINTS ON PLANNING AND FREEDOM AND THE DEVELOPMENT OF TOWN PLANNING

Of necessity, town planning today is bound up with national economic and social planning and, thus, with an ever greater influence on the individual and the collectivity.[1] The question of the means and values of planning, and of who makes the decisions, is of crucial concern for such values as freedom, democracy and equity. But while some writers have acknowledged the implications of this, planning philosophers and academics have, for the most part, failed to address the issue seriously. They claim that planning is the condition of freedom, democracy and equity. But either this proposition is merely asserted or it is based on highly personal and metaphysical beliefs. In this chapter, this debate on planning and freedom will be outlined, the work of planning historians will be reviewed in relation to the debate, and criteria will be established by which the developing planning legislation can be evaluated in terms of the debate.

THE PLANNING THEORETICIANS OF PLANNING AND FREEDOM

Most texts on planning theory and practice make little attempt to formulate a rationale for planning in terms of its ultimate benefit to mankind. The efficient functioning of the city is often viewed as sufficient justification for planning.[2] Generally, though, the claim is at least made that planning promotes freedom, democracy and equity.

Three progressively more elaborated interpretations of the role of planning in promoting freedom will be discussed.

First, in a paper entitled, 'Philosophy and Purpose of Planning' (1974), Rose asserts that 'it is intrinsic to the purposes and methods of planning that they are concerned with human "betterment" and "improvement".... Its purposes seek to provide a framework within which we may lead fuller and more productive lives.'[3] Yet no serious attempt is made to establish what is meant by human "betterment" and "improvement" or how planning promotes these ends. About all that is clear is that it is not through a mere concern for efficiency that these human ends are to be reached, for he declares that our modern society "demands a higher quality of planning which goes beyond the maximizing of economic resources or cost-benefit techniques". Then, in the next sentence, he affirms the value of efficiency over human values for he supports a national and international policy directed towards "population stabilisation", which "would make it easier to ensure...that human and natural resources are synthesized so as to ensure their use to maximum effect".[4] Such a population policy, of course, would involve a violent restriction of a fundamental aspect of individual freedom. Clearly, Rose has not attempted to think through the relationship of freedom with planning and efficiency, but his remarks are typical of the simplistic ideology which appears so frequently in the planning literature.

A more clearly constructed attempt to reconcile planning with freedom is advanced by Webber in a well-known paper, 'Planning in an

Environment of Change, Part II; Permissive Planning' (1969). Webber acknowledges that planning has the potential to undermine democratic principles and ignore such values as equity or social justice: "We are now quickly accumulating the skills for planning and then for engineering social change. This could be a highly felicitous development. But it could also be the basis for a new tyranny of technocrats".[5] Webber, however, believes that the growing power of planning, which will become "the characteristic mode of deciding and acting", will provide the opportunity for realizing freedom and democracy:

> The post-industrial age will bring unprecedented affluence to western societies. It will also make possible, for the first time in history, a range of choice sufficient to satisfy the preferences of all groups in those societies. The planning idea would accelerate that development. As the counterpart of the idea of democracy, and as an instrument for promoting freedom, I suggest it is worth our giving it a try.[6]

But how can choice and preference be expressed? In Webber's view, only by adopting market principles, by which he means that consumers should pay directly for public services. This market system would have to make provision for subsidized support for the poorer members of society but, Webber argues, even in this modified form it is still the most effective way by which consumers can tell planners what their wants really are. In practice, though, this 'permissive planning' would do little to reconcile planning with freedom and equity. First, it is doubtful whether the market system envisaged by Webber is capable of promoting equity. As one critic of his thesis has argued: "it is my contention that markets are fundamentally incapable of

performing this role of satisfying individual needs and wants [without] distortion in favour of the existing elites, even if a system of "negative income tax" were introduced'.[7] Second, increased affluence would only serve to increase individual wants and relative deprivation. Third, the tension between collective needs and individual freedom would still remain. If anything, it would be intensified by "unprecedented affluence" since the material infrastructure of a technical society - motorways, airports, dams, power stations, etc. - would be expanding (to the detriment of those injuriously affected by these developments). Similarly, with a proliferation of recreational goods and an increase in leisure time, greater conflict would result between the recreational use of the environment and industrial use (forestry, farming, mining, etc.).

Finally, an attempt to justify planning in terms of its ultimate contribution to humanity will be discussed. Faludi's Planning Theory (1973) is one of the most thorough and sophisticated studies on the subject of planning theory. It is also noteworthy for its attempt to base the rationale for planning on an explicitly defined concept of freedom. Faludi poses the question: "Why should one plan?" His answer is "that the aim of planning is human growth".[8] He regards human growth "as an ideal in the sense of man firstly transforming his physical environment and utilizing its resources; and secondly shaping human institutions, thus including the social environment into the orbit of his control".[9] The ability to control physical and social development through the use of reason is, for Faludi, the chief value. Ultimately, his rationale for planning is based on an existentialist view-

point, as he reveals when he talks about choice and the responsibility which this imposes on man:

> There is this very real choice to be made between accepting a challenge and letting mankind drift into the future ..... [between] human growth or, in the last consequence, death.... It is a challenge which is exacerbated by the uncertainty which characterizes any choice, uncertainty that concerns, amongst others, the possibility of choices having counterproductive implications.... But to shy away from choices means to shy away from that responsibility which a secular view of man squarely places upon him: the responsibility for his own fate.[10]

Faludi's conception of human growth is more fully articulated than Rose's conception of human "betterment" and "improvement", but it is nonetheless personal and abstract and far removed from the individual's concrete experience of the planning bureaucracy. Few people would see in Faludi's conception of human growth a sufficient justification for the restriction that planning imposes on their freedom of action.

Faludi also refers to the relationship of planning to democracy, noting that "planning is viewed with some considerable apprehension by people who care about the advancement of democratic values."[11] According to Faludi, though, this apprehension is exaggerated, for "planning, far from being in fundamental opposition to democracy, requires a democratic form of government for its proper conduct".[12] Yet, democracy for Faludi is conceived primarily as a means of improving the efficiency of planning. Public participation in planning (his criterion of democracy) is viewed merely as a means of maximizing "the chances of relevant information being brought to bear", and as a means of improving the success of planning, because "programmes are best implemented if

the people concerned have been involved in their formulation from the start, and control is minimized".[13] Public participation thus becomes little more than a technique to improve the efficiency of planning. It is possible that a local and limited Plan (Faludi cites a case study of a controversy over a local access road in a small Austrian village as an example of the benefits of public participation) embodying the considered opinion of the locality, could be formulated if a sustained and serious effort were made to involve the public throughout the planning process, but the difficulties of formulating a complex, large-scale plan with the active involvement of the public are so enormous as to be almost insurmountable.

Faludi's central concern for the effectiveness of planning becomes even clearer later in the book, when he argues for a stronger political role for the planner:

> There is a need for [experts] to take a much more prominent part not only in the technical process of preparing and implementing programmes, but also in the political debate concerning what these alternatives ought to try and achieve; not as the deciders but as contributors of vital elements to the argument. Without this element, no deliberate choices can be made at all.[14]

But, Ellul would argue, this increase in the already enormous influence of the technicians on the decision-making process can only be at the expense of whatever democratic structure remains. The implications for personal freedom of the role of the technician vis-à-vis the politician will be discussed more fully later.

THE INCOMPATABILITY OF PLANNING WITH FREEDOM AND DEMOCRACY

In contrast to the wishful manner in which planning is presented as the handmaiden of freedom and democracy in the planning literature, the arguments about their essential incompatibility are presented much more lucidly. Thus, Hayek, in The Road to Serfdom (1944), formulated one of the earliest and most powerful indictments of planning as the destroyer of freedom. He argued that planning, of necessity, subordinates individual freedom to collective goals, and that this cannot be justified by reference to the public welfare because there is no prevailing conception of the public welfare. Furthermore, planning, once adopted, extends its sphere of activity at the expense of individual freedom:

> That planning creates a situation in which it is necessary for us to agree on a much larger number of topics than we have been used to, and that in a planned system we cannot confine collective action to the tasks on which we can agree but are forced to produce agreement on everything in order that any action can be taken at all, is one of the features which contributes more than most to determining the character of a planned system.[15]

By its nature, planning is not amenable to democratic control:

> A democratic assembly voting and amending a comprehensive economic plan clause by clause, as it deliberates on an ordinary bill, makes nonsense. An economic plan, to deserve the name, must have a unitary conception. Even if a parliament could, proceeding step by step, agree on some scheme, it would certainly in the end satisfy nobody. A complex whole in which all the parts must be most carefully adjusted to each other cannot be achieved through a compromise between conflicting views.[16]

Hayek conceived democracy not as an end in itself, but as "essentially a means, a utilitarian device for safeguarding internal peace and individual freedom". This conception of democracy conflicts with planning because democracy "is an obstacle to the suppression of freedom which the direction of economic activity requires".[17]

Another aspect of the relation of planning to freedom is presented by Ellul, the French philosopher and historian of social institutions. He has written a number of penetrating and controversial analyses of contemporary society, of which two in particular have importanct implications for the nature of planning. In The Technological Society (1964), Ellul is concerned with establishing the nature of our technological society and drawing out its meaning for mankind. The technological society is shaped by and given over to 'technique' which Ellul defines as "the totality of methods rationally arrived at and having absolute efficiency (for a given stage of development) in every field of human activity".[18] Technique is the totality of the technical phenomenon and is motivated by efficiency:

> The twofold intervention of reason and consciousness in the technical world, which produces the technical phenomenon, can be described as the quest of the one best means in every field. And this "one best means" is, in fact, the technical means. It is the aggregate of these means that produces technical civilization .... It is really a question of finding the best means in the absolute sense, on the basis of numerical calculation.[19]

In a technological society, the means have become the end.

The dominance of the technical world has crucial implications for human values; "technical autonomy", Ellul insists, "is apparent in

respect to morality and spiritual values.... Within the technical circle nothing else can subsist because technique's proper motion, as Jünger has shown, tends irresistibly toward completeness".[20] In a society given over to the search for efficiency, planning is an indispensable activity. Ellul calls it "the technical method".[21] In agreement with Hayek, he concludes that "planning is inseparably bound up with coercion".[22] Also in agreement with Hayek, Ellul observes that planning cannot be confined to certain areas:

> The plan, once adopted as method, tends perpetually to extend to new domains.... Certain complementary given elements become proportionately more numerous as planning improves and modern society becomes more complicated. These mutual relationships render limited planning impossible. The plan engenders itself unless technique itself is renounced.[23]

Justifications of planning based on freedom are, for Ellul, attempts "to baptize obedience to technical necessity with the name freedom".[24] Planning, by proceeding on the basis of rationality towards the end of efficiency in response to technically-generated necessities, overlooks and relegates considerations of freedom and equity to secondary place.

In a related vein, Horowitz observes that:

> Social planning and social science, far from being "handmaidens" in a common concept, are in fact exceedingly different and for the most part profoundly antithetical in their missions. The commonsense of planning rests on a maximum utilization of resources and perfect equilibrium of economics. The commonsense of social science rests on maximum equity and liberty, and that entails producing an excess of supplies to satisfy demands. The bugaboos of

> planning - waste, unused resources, and inefficient organization - may be seen by social scientists as preconditions for a decent society, serving the public interest.[25]

This conception of planning was first given expression by utilitarianism in the nineteenth century. It will be discussed in the following chapter.

In The Political Illusion (1967), Ellul examines the role of politics in our society. Politics, he argues, has become emptied of any traditional significance by the growth and importance of technology (though men attach more significance to politics than ever):

> The true choice today with regard to political problems depends on the technicians who have prepared a solution and technicians charged with implementing the decisions .... In reality, the decisions fundamentally affecting the future of a nation are in the domains of technology .... But these innumerable decisions are the fruits of the technician's labors.... And the decision will no longer be taken on the basis of a philosophic or political principle or on the basis of a doctrine or ideology, but on the basis of technician's reports outlining what is useful, possible, and efficient.... The important thing is that necessity subordinates political decisions to technical evaluations with the consequence that "Political" decisions become increasingly rare.[26]

This has far-reaching implications for society because the technician views the nation as "an enterprise with certain services which ought to be profitable, yield a maximum of efficiency, and have the nation for its working capital".[27] To advocate greater participation of the technicians in the decision-making process, as Faludi does, is to further limit the choice to technical concerns. Ellul examines various

proposals to reconcile the operation of planning with democracy. One proposal would have the people guide the operation of planning. But a number of factors render this proposal unrealizable. These include the problem of information, the lack of interest on the part of individual citizens, and the difficulty of comprehending the ramifications of a particular goal. In connection with this last, Ellul writes:

> The simple citizen who gives his opinion will no longer recognize it once the rigorous method of economic calculation has passed over it and implemented it. In other words, in formulating a choice on the level of a speech, of opinion, or of sentiment, one does not know with precision what the end-result will be in terms of work schedules, the possibilities of consumption, investments, or the general equilibrium of the economy.[28]

The decisive role of the technicians in the formulation of goals and means has already been referred to. In recognition of this, a means of democratizing planning would be to have the politicians actively associated with the formulation of a plan from beginning to end. But this, Ellul maintains, would not result in democratic planning:

> But what will happen then will be what always happens in all technical commissions.... As time goes on, the politican...becomes specialized and acquires a genuine competence. But at the same time he acquires a new point of view and a cast of mind similar to that of the technicians. That is, it is not the technician who is won over to the general conception, the ideas of the politican, but the politician who takes on the technician's global outlook and motivations. At that moment the decisions no longer are really those of the politician.[29]

An example of this transformation is noted by Smith, in his study of the planning process for urban redevelopment in Victorian Edinburgh.[30]

Ellul ends his examination of proposals to democratize planning with the following conclusion:

> I believe that the formula of democratizing planning, or of bringing together politics and technique within a planning system is a characteristic example of a political illusion, of empty verbiage. It is a consolation that one gives oneself when confronted by the real growth of this planning power, and of the consequent questioning of democracy.[31]

For Ellul, planning is irreconcilable with freedom and democracy, but as long as progress is conceived in terms of technical and material advance, certain operations, such as planning, which are indispensable to this pursuit, will be developed regardless of their implications for freedom and democracy.

Barrett, in The Illusion of Technique (1978), similarly notes the threat to humanity posed by the dominance of the technical orientation:

> We may become no longer free for the kind of thinking that would redeem us from the world we ourselves have created. The danger already shows in the superficiality of our complaints against the technical world.... We may eventually become so enclosed in them [the suppositions of the technical world] that we cannot imagine any other way of thought but technical thinking.... We seem already on the way there.[32]

THE PLANNING HISTORIANS ON THE NATURE OF PLANNING

This general debate on the relation of planning to freedom and democracy extends to studies of the historical development of town planning. The main books are Ashworth, The Genesis of Modern British Town Planning (1954), Benevolo, The Origins of Modern Town Planning (1967) and Cherry, The Evolution of British Town Planning (1974). Cherry has also written the following papers: 'The Spirit and Purpose of Town Planning: a historical approach' (1969), 'Influences on the Development of Town Planning' (1969), 'The Development of Planning Thought' (1974) and 'The Town Planning Movement and the Late Victorian City' (1979).[33]

These studies offer two radically different interpretations of the development of town planning in Britain. One interpretation sees town planning emerging as a genuine reform movement uniting social idealism with technical method. Town planning, in its view of the public welfare and the city, is thus considered to signify a conceptual advance from the approach of the sanitary reform movement of the mid-nineteenth century. The other interpretation argues that, very early in its development, planning discarded its social reform origins and became a technical power with socially retrogressive consequences.

The first interpretation was promulgated by Ashworth who claimed that his book is "essentially a study of the generation of a new social movement by the interaction of human thought with social and economic conditions".[34] He provides a well-written and well-documented

account of the problems of the nineteenth-century city and of the attempts to solve them, but no convincing explanation is given of the evolution from sanitary reform to town planning.

Cherry provides the most explicit interpretation of planning as a genuine reform movement promoting freedom and democracy:

> In its philosophy town planning is part of a comprehensive process encompassing physical, economic, and social planning in a democratic context where the ultimate aim is to extend the fullest opportunities of life.[35]

> The town planner's role therefore becomes permissive rather than deterministic: it is to provide a physical, social and economic framework not so much to fashion behaviour but rather to present the widest range of opportunities, and by removing constraints, to enable individuals to become 'free'.[36]

> [Planning] is motivated by considerations of human rather than technological values.[37]

This view of planning, however, is merely affirmed. Cherry makes no serious attempt to establish how planning advances freedom and is motivated by human values. This weakens his historical interpretation which rests largely on the following proposition:

> Town planning has inherited a rich tradition, fed in the main from two sources: the social idealist and the urban designer.... At the end of the last century housing, in the crucible of urban problems, fused the two approaches and the role of the community builder was promoted on a totally new scale.[38]

More recently, Cherry has emphasized the primacy of "the substantial economic and social transformations of 19th Century Britain" on the development of planning.[39] He also dates the emergence of the

town planning movement to the period 1885 - 1905, and gives a convincing explanation of the factors that brought about the Housing and Town Planning Act of 1909, which enabled local authorities to prepare town planning schemes for developing urban areas.[40] Yet he still fails to explain how the planning legislation, in its conception of the public welfare, differed from earlier forms of State intervention with the urban environment, and the sanitary reform legislation in particular.

In contrast to Cherry's interpretation, Benevolo argues that what became known as planning in the twentieth century was essentially only an elaboration of the technical means to manage the city employed by sanitary reform. This conclusion derives from Benevolo's conception of planning as a force that should be directed toward establishing social justice and which is therefore inherently political.

Benevolo argues that planning began in the early nineteenth century with the attempts of "two antithetical schools of thought" to remedy the inequities and imbalances of the industrial city. One school of thought, represented by the Utopian Socialists such as Robert Owen, Charles Fourier, Etienne Cabet and Saint-Simon, sought to develop wholly new communities in accord with the emerging economic and social conditions of the time. The other school of thought sought to deal with the problems of the city separately, "without taking into account their inter-relationship and without having any over-all vision of the town as a single organism". This was the approach of the sanitary reformers who, "because they had to find the technical and legalistic means to implement these sanitary improvements laid the real foundations of

modern town-planning legislation". This was the utilitarian approach. These early achievements, "even the most purely technical", "had their roots firmly planted in matters of ideology, which in turn corresponded largely with the beginnings of modern socialism". This relationship between the technical and the ideological, however, was severed after 1848, the moment when the parties of the working-class movement began to be organised in opposition to the parties of the bourgeoisie:

> From that time onwards political theory almost always tended to disparage specialist research and experiment, and attempted to assimilate proposals for partial reform within the reform of society generally. Town-planning, on the other hand, cut adrift from political discussion, tended to become increasingly a purely technical matter at the service of the established powers. This did not mean, however, that it became politically neutral; on the contrary, it fell within the sphere of influence of the new conservative ideology which was evolving during these years...

On the basis of this historical interpretation, Benevolo concludes that "progressive tendencies of modern planning can be practically realized only if they make contact once more with those political forces which tend towards a similar general transformation of society".[41]

Ellul puts a different interpretation on the events of 1848 and the ascendency of technical matters over politics:

> As late as 1848, one of the demands of the workers was the suppression of machinery. This is easily understood. The standard of living had not risen, men still suffered from the loss of equilibrium in their lives brought about by a too rapid injection of technique, and they had not yet felt the intoxication of the results.... For this reason, there was a reaction against technique, and society was split. The power of the State, the money of the bourgeoisie were for it; the masses were against.

> In the middle of the nineteenth century the situation changed. Karl Marx rehabilitated technique in the eyes of the workers. He preached that technique can be liberating. Those who exploited it enslaved the workers, but that was the fault of the masters and not of technique itself.... The working class would not be liberated by a struggle against technique but, on the contrary, by technical progress itself, which would automatically bring about the collapse of the bourgeoisie and of capitalism. This reconciliation of the masses to techniques was decisive.[42]

For all their difference in interpretation, however, Ellul and Benevolo reach the same conclusion: the nineteenth century brought the increasing power of the technical and its separation from political affairs and ideology.

The naiveté with which freedom and democracy are regarded in the general planning literature reflects the common assumption of the planning historians, that planning was a momentous new social reform movement and therefore it had to be dedicated to the expressed values of the society that it was supposed to be serving. Hence, the ideological blindness to its technical imperatives in the utilitarian sanitary reform tradition.

ESTABLISHING CRITERIA TO EVALUATE THE DEVELOPING PLANNING LEGISLATION

Two approaches to the evaluation of the development of planning in relation to freedom and democracy are indicated by the literature. The first concerns the inherent nature of planning. That is, planning as a rational activity designed to achieve a certain objective in the most efficient manner. The other approach focuses on the difficulty

of applying planning in a democratic manner without endangering freedom.

The first approach emphasizes the role of efficiency. The planning advocates do not recognize any tension between efficiency and freedom, though they claim that planning must have as its final goal something beyond a concern for efficiency. Ellul, Horowitz, and Barrett, however, see planning as inherently oriented towards efficiency and thus subordinating such values as freedom and democracy.

It is very clear, then, that the application of planning has large implications for freedom and democracy. Planning legislation authorizes the restriction of individual freedom in the name of some larger social purpose. On this issue, there is a clearly expressed contradiction. The planning advocates and historians overlook this restriction on the individual and claim that, in fact, planning promotes freedom. Yet, no convincing explanation is advanced to demonstrate how planning promotes freedom, while for Hayek and Ellul, the coercion of the individual in the name of the collectivity is the central fact of planning that cannot be reconciled with freedom.

The relationship of planning to democracy is a related concern that is given a contradictory interpretation. The planning advocates and historians are unanimous that planning advances democracy, while the critics of planning argue that the two are incompatible. The most important issue in this concern is the role of the technicians in the planning process. Ellul argues convincingly that the technicians have the determining role in planning and that any increase in the influence

of the technicians (a development Faludi advocates) occurs at the expense of democracy.

A related issue is that of the centralization which planning supposes. Though this issue is not evident in the literature examined, it was an important concern in nineteenth-century Britain. Centralization was widely regarded as a dictatorial development, destroying local autonomy and freedom, but it was always favoured by planning advocates.

Efficiency, the power of the State, the role of the technician vis-à-vis the politican, and centralization, then, are the four criteria which will be used to evaluate the evolving legislation.

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CHAPTER III

THE UTILITARIAN RATIONALE AND THE ORIGINS OF THE IDEA OF TOWN PLANNING 1836 - 1875

The nature and concerns of the various types of planning legislation - housing, public health, pollution control, outdoor recreation and small holdings - which were developing in the period 1875 to 1909, can be understood only in relation to the rationale and purposes of the legislation which preceded it in the 1830s and 1840s. The relevant themes of the early planning legislation will therefore be reviewed in this chapter.

AN INCONTROVERTIBLE STANDARD: THE UTILITARIAN PRINCIPLE

A discussion of utilitarianism as a philosophical system is outside the scope of this thesis.[1] What is relevant is the application of utilitarian reasoning to social policy, and to planning in particular. Utilitarianism, as formulated by Jeremy Bentham (1748 - 1832) and qualified by John Stuart Mill (1806 - 1873), advanced the absolute principle that the greatest happiness of the greatest number was the ultimate good. Thus, any action could be judged in terms of its contribution to the general happiness or welfare. Rational decisions were those that advanced human welfare. If increasing the sum of human welfare was the ultimate end, then the pursuit of efficiency was the means to that end.[2] What really mattered for the utilitarians, as Eversley puts it, "was whether the resources of society were being used to best advantage".[3] This standard radically

challenged the procedures of existing social and State institutions, along with the material conditions of life in the home and the work-place. By increasing the efficiency of institutions (such as the Poor Law) and living conditions (improving urban sanitation), human resources are fully engaged and productivity is maximized to everyone's ultimate benefit. Utilitarianism, by offering the hope of progress within the established framework of society, proved to be the incontrovertible and determining factor in the formulation of social policy throughout the nineteenth century and, arguably, to the present day. Of most immediate relevance, the early planning legislation is clearly based on utilitarian reasoning.

THE UTILITARIAN ORIGINS OF PLANNING LEGISLATION

Smith, drawing on a paper by Francis Hyde, argues that town planning as a social institution was first conceived in utilitarian terms.[4] The central figure in this development was John Arthur Roebuck (1801 - 1879), an active proponent of utilitarianism and a friend of John Stuart Mill. Roebuck's youth was spent in Canada where he developed a deep appreciation of nature. This outlook, in which utilitarianism was combined with a belief in the beneficial influence of nature, formed the basis of Roebuck's conception of town planning which he explicitly formulated in 1828 and 1835. For Roebuck, the insanitary and crowded industrial towns with their numerous public houses provided no opportunities for the working classes to engage in rational and healthy recreation. What was needed according to Roebuck were parks and other types of open spaces, both inside and

outside the city, where the city's inhabitants could recreate themselves in nature's beneficent arms: "Nature, to Roebuck, was not solely an antidote for the physical diseases to which urban man was so horrifyingly exposed; it was also an antidote to social diseases of all kinds - crime, drunkenness, prostitution, pauperism, social disorganization, and violence, all could lose their force in the city of Roebuck's vision."[5] It was therefore the duty of the State to ensure that these public facilities should be freely available. Local authorities should be given the power to acquire land by compulsory purchase for the laying out of parks and open spaces. Part of Roebuck's planning conception was translated into law through a clause in the Enclosure Act of 1836 prohibiting the enclosure of common fields within a certain radius from the centres of towns and cities.[6]

Smith argues that Roebuck "provided the first explicit formulation of the rôle of town planning as a social institution. In effect, he viewed it as the public management of urban land for the public good." Roebuck's utilitarian principle of action was of crucial significance for the development of town planning and Smith argues that he was "the first advocate of the most influential ethical formula which planners have employed".[7]

Edwin Chadwick's Report on the Sanitary Condition of the Labouring Population of Great Britain. 1842.

Roebuck had formulated a conception of town planning but it was another utilitarian, Edwin Chadwick (1800 - 1890), who was instrumental

in obtaining the Public Health Act of 1848 which established a central Board of Health and permitted local authorities to regulate the urban environment for the public welfare.[8] Chadwick had sat on the parliamentary commission of inquiry into the operation of poor laws which sat from 1832 to 1834 and was one of the chief architects of the Poor Law Amendment Act of 1834, which applied utilitarian principles to the administration of the poor law.[9] In response to a renewal of cholera and typhoid epidemics in 1837 and 1838, the government requested the Poor Law Board, of which Chadwick was Secretary, to investigate and report on the condition of towns and cities throughout Britain. This was the first time that the State had shown concern for urban conditions on a national level.

The Report was published in 1842 and was almost entirely Chadwick's work. It is recognized as one of the most decisive documents of the nineteenth century; Tarn describes it as "an epoch-making document, novel, thorough, and seemingly incontrovertible".[10] The background and contents of the Report have been thoroughly discussed in Flinn's introduction to the 1965 edition.[11] Its importance for this thesis lies in its conception of the city and the public welfare, for more than any other study of the time, Chadwick's Report typified the State's conception of the public welfare and the way in which it dealt with the city. The Report is seen by Choay as one of the earliest examples of the city being examined "with a clinical eye":

> To these writers the semantic loss of the urban phenomenon and the transition from partial control in urban development to an absence of control, with its concomitant sanitation problems, make them view the urban agglomeration as a diseased condition, or worse, a monstrous deformity.[12]

Cobbett described London as "the great wen".[13] The city was seen as a diseased but indispensable organism that must be made whole. A direct link had been identified between the most vital problem of the city - high mortality and morbidity rates - and the horribly insanitary urban environment. The chief contemporary theory of disease, the miasma theory, contended that disease was generated by the miasma arising from decaying organic matter. The response to this disorder is characterized by Choay as regularization, "that form of critical planning whose explicit purpose is to regularize the disordered city, to disclose its new order by means of a pure, schematic layout which will disentangle it from its dross, the sediment of past and present failures".[14] The city would have to be made clean and its street network adapted to the requirements of the new form of transportation - the railway.

The public welfare was conceived in stark, utilitarian terms. It has been argued that Chadwick had an obsession with dirt that made a sanitary environment an end in itself.[15] That may be, but Chadwick's hatred of waste has been firmly identified as a ruling principle in his life.[16] More than anything else, it typifies his Report and is the rationale by which he argues for State intervention in the urban environment. The needless inefficiency and waste inherent in an insanitary environment are constantly emphasized. Efficiency, in the

sense both of economic production and social costs, is made the criterion against which existing conditions and practices were measured and found wanting:

> That the annual loss of life from filth and bad ventilation are greater than the loss from death or wounds in any wars in which the country has been engaged in modern times....
>
> That the public loss from the premature deaths of the heads of families is greater than can be represented by any enumeration of the pecuniary burdens consequent upon their sickness and death.
>
> That, measuring the loss of working ability amongst large classes by the instances of gain, even from incomplete arrangements for the removal of noxious influences from places of work or from abodes, that this loss cannot be less than eight or ten years....
>
> That the younger population, bred up under noxious physical agencies, is inferior in physical organization and general health to a population preserved from the presence of such agencies.
>
> That the population so exposed is less susceptible of moral influences, and the effects of education are more transient than with a healthy population.
>
> That these adverse circumstances tend to produce an adult population short-lived, improvident, reckless, and intemperate, and with habitual avidity for sensual gratifications.[17]

To effect improvement, Chadwick recommended that the local authorities undertake to develop such public works as a water-borne system of sewage removal, an adequate water supply and a refuse-removal service. Although the Sanitary Report remained "tactfully silent" on the issue of central supervision, Chadwick had envisaged a central department to oversee the work of the local authorities as already implemented for poor law administration.[18]

The government responded by establishing, in 1843, A Royal Comission on the Health of Towns. The Commission should not be seen as a delaying measure but as a necessary means of substantiating Chadwick's findings and of developing, in more detail, the form of any necessary legislation.[19] The Commission's Report was published in two parts in 1844 and 1845. It confirmed Chadwick's findings as to the terribly insanitary conditions of the cities, towns and villages, but it also emphasized conditions within working-class dwellings and the extent and consequences of overcrowding, suggesting that conditions within the house could lead to illness and so to poverty and unemployment.[20] This was a different emphasis from Chadwick, who concentrated instead on external sanitary defects such as inadequate methods of sewage disposal. The Commission's emphasis on overcrowding was, in the context of public health, a logical extension of Chadwick's work and it anticipated the debate of the latter part of the century. However, given the conditions of the time, Chadwick's emphasis was correct; the elimination of cholera and typhoid was the primary concern. Significantly, the Commission's Report was based on utilitarian reasoning. This is the crucial point. Consider the following:

> The loss of life which occurs annually from a neglect of the measures necessary for rendering wholesome the dwellings of the poor and the streets adjacent, must be accompanied by serious pecuniary charges both upon the sufferers themselves and upon the community. The prolonged attacks of sickness which precede this excessive mortality, render the victims of it incapable of following their daily occupations, and reduce them and their families to the necessity of seeking relief from the parish and other funds, which are eventually burthened with the maintenance of the surviving members of the family.

> The pecuniary saving from this and other sources which has been pointed out as the inevitable result of a large outlay for improvements, has been urged upon us as an argument to justify the interference of the Legislature.[21]

The Legislative Response: The Public Health Act of 1848

The government was slow to act on the two Reports. Flinn argues that the Irish famine and the question of the poor laws took "overwhelming precedence" during 1845 and 1846.[22] In 1847, Lord Morpeth, a supporter of Chadwick, introduced a Bill based on the recommendations of the two Reports but strong opposition to the provision for central administration and the inclusion of London resulted in the Bill being withdrawn. The following year, Morpeth introduced a revised Public Health Bill. Again, there was strong opposition to the provision for central administration, while The Economist questioned even the principle of legislating for the public welfare:

> In our condition, suffering and evil are nature's admonitions; they cannot be got rid of; and the impatient attempts of benevolence to banish them from the world by legislation, before benevolence has learnt their object and their end, have always been more productive of more evil than good.[23]

This last gives an indication of the distance between liberal conceptions and utilitarianism. Cholera, however, had reappeared in Europe, adding a vital urgency to the question of public health. "Cholera", the Times declared, "is the best of all sanitary reformers. It overlooks no mistake and pardons no oversight".[24] Morpeth's Bill became law as the Public Health Act of 1848. Tarn describes its provisions

as follows:

> The Act...established the organization necessary at least in theory to control health; there was a central General Board, appointed initially for five years with special powers to bring the sanitary provisions of the Act into operation and establish local health authorities to carry them into effect. In existing municipalities power was vested in the town council, but where there was no such authority an entirely new Local Board of Health could be created. Attached to each health authority was to be an inspector of nuisances, a surveyor and, at the discretion of the local authority, a medical officer. The Local Board could make regulations requiring that all new houses should have proper drainage and adequate sanitary accommodation, it could undertake to supply water, under certain conditions, to construct sewers, and to defray the expenses involved; there were provisions for a special rate to be levied or, alternatively, the Board might take out a mortgage.[25]

These powers conferred by the State were, however, entirely permissive. Centralized direction was provided for in section 10 which made it the duty of the State to impose the Act on local authorities when the death rate exceeded 23 per 1,000 or where demanded by a petition of one-tenth of the ratepayers, but the permissive nature of the Act effectively cancelled any possibility of unwanted State interference. Despite the permissive provisions, the Act established that it was the responsibility of the State to regulate the urban environment for the public welfare.

The Extension of Sanitary Reform

By mid-century, the public welfare was locked inside a utilitarian framework from which it would not escape. The utilitarian principle was perfectly suited to the exercise of public health powers

since the elimination of cholera and typhoid and the improvement of health was to everyone's benefit. For nearly three decades after the Act of 1848, the sanitary legislation was logically extended from the regulation of sewers and waste removal to the condition of individual houses, in accordance with the utilitarian rationale of the Act of 1848. However, the utilitarian rationale became increasingly inapplicable as the tightening of sanitary standards, without the provision of subsidized and sanitary housing, deprived the poor of their customary dwellings, thereby driving them into still more crowded and insanitary habitations. The realization of the inefficiency of this policy resulted in the Cross Act of 1875 which combined slum clearance with rehousing, thereby re-establishing the viability of the utilitarian rationale for town planning.

Ironically, just three years after the Public Health Act of 1848, an Act was passed that permitted local authorities to build subsidized dwellings for the poor. If it had been extensively used, the steady increase in overcrowding throughout the century might have been prevented. The Labouring Classes Lodging Houses Act of 1851, commonly known as the Shaftesbury Act, is seen by the housing historians as a measure of the Earl of Shaftesbury's character and authority rather than an indication of any desire on the part of Parliament to encourage municipal housing. The Act remained unused.[26]

A further step was taken in 1855. The Nuisances Removal Act of 1855 ruled that a house "unfit for human habitation" was a nuisance but unfitness was not legally defined. Although the Act was normally

to be invoked by the medical officer of health, any individual could complain of a nuisance, which included "any premise in such a state as to be injurious to health, any pool, ditch, water-course, cesspool, drain or ashpit so foul as to be a nuisance or injurious to health".[27] However, as Gauldie points out, this right was "only a paper weapon in the hands of those who suffered most from nuisances".[28]

During the 1860s sanitary reformers urged for the consolidation and expansion of sanitary reform powers. Their arguments were strengthened by the appearance of another cholera epidemic in 1865 - 1866 and appropriate legislation was enacted. This was the Sanitary Act of 1866 which consolidated and amended the previous public health legislation and gave the central authority coercive power over the local authorities. Gutchen argues that this "amounted to a revolution in the traditional relations between central and local government",[29] and Lambert describes the Act as "a major landmark in the development of public health activity and central-local relations in the nineteenth century".[30] There was surprisingly little contemporary reaction to this provision, however, either inside or outside Parliament.[31] In addition, overcrowding was defined as a nuisance for the first time. This is significant, for the increasing emphasis on density standards towards the end of the century prompted suburban development, thereby providing the opportunity for the exercise of town planning.[32] But simply to define overcrowding as a nuisance without providing additional housing for the poor was counterproductive. As it was, the overcrowding regulation was not enforced by the medical

officers, for they realized that enforcement would only increase further the miseries of the poor.[33]

It was in recognition of this shortcoming that William Torrens, in 1868, introduced his Artizans' and Labourers' Dwellings Bill.[34] It gave local authorities powers to demolish or renovate insanitary houses and to provide "by the construction of new buildings or the repairing and improving of existing buildings, the labouring classes with suitable dwellings".[35] Provision was also made for these powers to be enforced by the central authority. Torrens justified this major intervention in property rights with utilitarian reasoning:

> No man conversant with the relief of the poor will deny that the ratepayers will be more than compensated by the diminution of pauperism and subsequent diminution of the poor rate which will be caused by improved dwellings for the people.[36]

In a later debate on the Bill, Torrens stressed that:

> It was not the rent of land or the interest upon money, but the wages of the labourer day by day, out of which the taxation of the country to the amount of some £60,000,000 annually came, and every hand struck down by fever or disease was so much destruction of capital.[37]

The Bill underwent very close scrutiny by a select committee of the House of Commons, and many amendments were imposed. The pressure of other legislation, and a change in government delayed the Bill, and it was not until 1868 that it was given the third reading in the Commons. Significantly, the Commons assented to the powers of compul-

sory demolition of insanitary houses, and the construction of municipal housing. But in its passage through the Lords, the municipal housing clauses were dropped.[38]

The Artizans' and Labourers' Dwellings Act of 1868 authorized local authorities to compel owners of insanitary dwellings to make improvements to the property. If the dwelling could not be made habitable, it could be demolished without compensation. If the local authority neglected its duty, any four householders could petition the central authority which could direct the local authority to enforce the Act. The Act, like preceding sanitary measures, was counter-productive, because demolition of slum property without rehousing would only intensify the housing and sanitary problems. Furthermore, action at the level of the individual house would make little improvement in slum areas. Nevertheless, as Tarn points out, the Act established "the principle of interference in an area of liberty which had previously been regarded as sacrosanct".[39]

This measure prepared the way for the Cross Act of 1875 which provided for large-scale slum clearance and redevelopment.

NOTES AND REFERENCES TO CHAPTER III

1 For a study of utilitarianism as a philosophical system see Elie Halevy, The Growth of Philosophic Radicalism. London: Faber and Gwyer, 1928.

2 Efficiency was certainly a central value in Bentham's life for he spent much of his adult life and the bulk of his inheritance attempting to realize his 'Panopticon', a model prison constructed in such a way that only one guard was needed to supervise all the prisoners by means of a system of mirrors that enabled the guard to observe the prisoners without being seen by them.

3 David Eversley, The Planner in Society: The Changing Role of a Profession. London: Faber and Faber, 1973, p. 46.

4 P.J. Smith, 'John Arthur Roebuck: A Canadian Influence on the Development of Planning Thought in the Early Nineteenth Century', Plan Canada. Vol. 19, 1979, pp. 200-210.

Francis E. Hyde, 'Utilitarian Town Planning, 1825-45', Town Planning Review. Vol. 19, 1947, pp. 153-159.

5 Smith, 'John Arthur Roebuck:', p. 205.

6 The restricted zone ranged from one mile around towns of 5,000 inhabitants to three miles around towns of 100,00 inhabitants. London was to have a restricted zone of ten miles radius Hyde, 'Utilitarian Town Planning, 1825-45', pp. 157 - 158.

7 Smith, 'John Arthur Roebuck:', pp. 205 and 208.

8 The standard biographies are S.E. Finer, The Life and Times of Sir Edwin Chadwick. London: Methuen, 1952 and R.A. Lewis, Edwin Chadwick and the Public Health Movement 1832-48. London: 1952.

9 Chadwick and the other supporters of the Poor Law Amendment Act of 1834 condemned the system of outdoor relief characterized by the 'Speenhamland System' which tied relief to the price of bread and permitted the recipients of relief to live at home. Chadwick and others argued that this system encouraged large families and provided a discouragement to industrious work. They proposed that recipients of relief should be required to live in a workhouse where they would perform useful work. The conditions of the workhouse were to be such as to dis-

9 courage all but the deserving poor - the sick and the infirm. This was the principle of 'less eligibility'. The healthy unemployed labourers would thus be encouraged to find work thereby increasing their moral worth and the nation's productive capactiy.

10 J.N. Tarn, Five Per Cent Philanthrophy: An Account of Housing Urban Areas between 1840 and 1914. Cambridge: Cambridge University Press, 1973, p. 1.

11 M.W. Flinn (ed.), Report on the Sanitary Condition of the Labouring Population of Great Britain, by Edwin Chadwick, 1842. Edinburgh: Edinburgh University Press, 1965.

12 Francoise Choay, The Modern City: Planning in the 19th Century. London: Studio Vista, (undated).

13 The description appeared in Rural Rides in 1830.

14 Choay, The Modern City: Planning in the 19th Century. p. 15.

15 Richard L. Schoenwald, 'Training Urban Man', in H.J. Dyos and Michael Wolff (eds.), The Victorian City: Images and Realities. 2 Vols. London: Routledge and Kegan Paul, 1973.

16 Finer, The Life and Times of Sir Edwin Chadwick.

17 Flinn (ed.), Report on the Sanitary Condition of Labouring Population of Great Britain, by Edwin Chadwick, 1842, pp. 422 - 423.

18 ibid., p. 71.

19 ibid., p. 67.

20 Anthony S. Wohl, The Eternal Slum: Housing and Social Policy in Victorian London. Montreal: McGill-Queen's University Press, 1977, pp. 14 - 15.

21 Second Report of the Royal Commission on the State of Large Towns and Populous Districts 1845. Parliamentary Papers. 1845, Vol. XVIII, p. 4.

22 Flinn (ed.), Report on the Sanitary Condition of Labouring Population of Great Britain, by Edwin Chadwick, 1842, p. 70.

23 Cited in Tarn, Five Per Cent Philanthrophy, p. 9.

24 Cited in Francis Sheppard, London 1808 - 1870 The Infernal Wen. London: Secker and Warburg, 1971, p. 270.

25 Tarn, Five Per Cent Philanthrophy, p. 10

26 Enid Gauldie, Cruel Habitations: A History of Working Class Housing 1780-1918. London: George Allen and Unwin, 1974, and Wohl, The Eternal Slum.

27 Tarn, Five Per Cent Philanthrophy, p. 67.

28 Gauldie, Cruel Habitations, p. 254.

29 R.M. Gutchen, 'Local Improvements and Centralization in Nineteenth-Century England', Historical Journal. Vol IV, 1961, p. 91.

30 Cited in Wohl, The Eternal Slum, p. 80.

31 Robert M. Gutchen, 'Local Improvement and Centralization in Nineteenth-Century England', p. 92.

32 Gordon Cherry, 'The Town Planning Movement and the Late Victorian City', Transactions, Institute of British Geographers, New Series Vol. 4, No. 2, 1979.

33 A.S. Wohl, 'Unfit for Human Habitation', in Dyos and Wolff (eds.), The Victorian City. pp. 603-624.

34 The Bill originated from the work of a committee of the National Association for the Promotion of Social Science. Torrens was a member of the Committee and Edwin Chadwick was the chairman. Gauldie, Cruel Habitations p. 261.

35 ibid.,p. 269.

36 Hansard, third series,(1866) CLXXXI, 122.

37 Hansard, third series,(1867), CLXXXVI, 670.

38 Gauldie, Cruel Habitations, pp. 268-270.

39 Tarn, Five Per Cent Philanthrophy, p. 73.

CHAPTER IV

HOUSING LEGISLATION AND THE DEVELOPMENT OF TOWN PLANNING: 1875 to 1909

From its beginnings in 1848, State intervention with the urban environment had been shaped by conceptions of the city and of the public welfare which proceeded from the imperatives of efficiency. This orientation continued to prevail in the period between 1875 and 1909. The utilitarian reasoning of the early nineteenth century, which had so radically contested the old order, had become by the latter part of the century, the very foundation of justification for State intervention. The stark and uncompromising form of rationality typified by Chadwick was no longer a marked feature of debate but that only reflected its position as a commonplace. This was of decisive significance for the evolution of town planning, since the critical developments were shaped by the unquestioned orientation towards efficiency.

In the period 1875 to 1909, legislation was enacted specifically to meet the pressing social and physical problems of the time, which contemporaries thought were rooted in inadequate housing conditions. In this, two crucial themes can be seen developing. First, town planning became a tool of the utilitarian sanitary reform conception of the city and public welfare. It was conceived in terms of environmental improvement, a concept which Smith describes as "one of the wellsprings of the urban planning idea, perhaps, even, its greatest ideological constant."[1] Second, the growth of the idea of town planning as an activity of the State is clearly evident in the

developing powers over private use of the urban environment and the developing powers of the State to enforce planning legislation at the local level.

THE IDENTIFICATION OF TOWN PLANNING WITH SANITARY REFORM AND THE IMPERATIVES OF EFFICIENCY: THE 1875 CROSS ACT AND ITS SUCCESSORS

The Cross Act was of crucial significance for the development of town planning. It was, as indicated earlier, the first national statute to permit local authorities to redevelop specified urban areas according to a plan, for the public welfare. Previous State intervention with the urban environment was limited to the regulation and demolition of individual houses. There was no provision for a comprehensive restructuring of large areas of the urban environment in accordance with a coherent plan. The Cross Act therefore signified an important extension of the powers of State intervention with the urban environment and a decisive advance in the technique of intervention, i.e. the improvement scheme. But this increased responsibility and potential was conceived primarily in terms of sanitary reform, and so linked town planning with a conception of the city and the public welfare that was based on economic and social efficiency.

Conceptions of the Cross Act: The Parliamentary Debate

This conception of the Act is apparent both from the debate surrounding its passage through Parliament and from its provisions. On the 8th of February, 1875, Disraeli's Home Secretary, Richard Cross,

introduced a 'Bill for Facilitating the Improvement of the Dwellings of the Working Classes in Large Towns'. It was prompted, said Cross, by memorials on the subject of working class housing presented to Parliament the previous spring by the Charity Organization Society and the Royal College of Physicians, a body "of great eminence, which seldom interferes with public business or presents petitions of this kind".[2] Later that year, U.J. Kay-Shuttleworth and Sir Sydney Waterlow, the chairman of one of the largest model dwellings companies, again drew Parliament's attention to the terrible housing conditions of the working classes. In their view, the solution for London's housing problem required that compulsory powers of slum clearance should be given to the Metropolitan Board of Works who would then offer the cleared sites to companies building suitable working-class dwellings. Cross responded that he "was able, on the part of the Government, to give an assurance that this matter had received their attention, and should continue to do so".[3] The 1875 Bill, Cross, said, was the promised response.

Cross began the discussion of the Bill with a statement of his belief in environmental determinism:

> We may take it as an axiom that what the homes of the people are the people themselves will be found to be. That is a maxim upon which the House in a great deal of its legislation has acted.[4]

Cross believed that both moral and physical health were determined by environmental conditions, and this gave him his central rationale for State intervention in housing conditions. At the same time, the role of the state was circumscribed:

> I take it as a starting-point that it is not the duty of the Government to provide any class of citizens with any of the necessaries of life, and among the necessaries of life we must include that which is one of the chief necessaries - good and habitable dwellings.[5]

A policy of State aid could not 'teach a worse lesson than this - that "if you do not take care of yourselves, the State will take care of you"'.[6] Having established his orthodoxy on this sensitive issue, he moved on to sure ground: "No one will doubt the propriety and right of the State to interfere in matters relating to sanitary laws."[7] The Bill, he said, proceeds "entirely on sanitary grounds.... It is only sanitary purposes that we have in view".[8] Wohl claims that this emphasis on sanitary reform was merely a clever diversionary tactic, for Cross was really advocating "comprehensive housing reform in the guise of sanitary legislation".[9] But this raises the question of why Cross favoured housing reform. Throughout the debate he emphasised the objective of improved health: "The object of the Bill... was the demolition of the great fever and plague spots in London and the large towns.... What he had in view was the improvement of health."[10] The experience of earlier sanitary reform measures indicated that, without provision for rehousing, large-scale slum clearance would be counter-productive. It was in recognition of this that Cross advocated rehousing of the displaced slum inhabitants, not, as Wohl implies, out of a sense of social justice. The sanitary reform conception is clearly evident in the debate and the Act.

Moreover, Cross presented a rationale for sanitary reform in

terms that are strikingly similar to those used by Chadwick:

> There is a maxim which is as true of nations as of individuals - that health is actually wealth.... It must be admitted that there is a great deal of preventable disease; and if by our legislation, and without any inroad upon the sound principles of political economy, we can prevent such a waste of life, power, energy, health, and everything that makes a nation healthy and wealthy, it is our duty to interfere and see whether we cannot do something to arrest this waste.[11]

He also buttressed this rational appeal with a moral exhortation:

> I ask you on these dens of wretchedness and misery to cast one ray of hope and happiness; I ask you on these haunts of sickness and of death to breathe, at all events, one breath of health and life; and on those courts and alleys where all is dark with a darkness which not only may be, but is felt - a darkness of mind, body, and soul - I ask you to assist in carrying out one of God's best and earliest laws - 'Let there be light'.[12]

Even at this comparatively late date, then, the physical planning approach to the achievement of a healthy urban environment was still strongly influenced by the miasmatic theory of disease which had also been the key to Chadwick's intervention with the urban environment:

> The causes of the present loss of life are not far to seek....it is not simply that houses are overcrowded, but districts are overcrowded, and the air is vitiated. I know of one place in St. Giles where there are 70 courts and alleys or small streets close together, without one single thoroughfare through which the residents can get a breath of pure air. The only way in which you can get into these districts is to cut a thoroughfare right through them....miasma rises from the ground through the houses, and nothing can be done to cure this unless you make a clean sweep of the houses.[13]

The efficiency rationale for Cross's Bill was also presented by many other members from both sides of both Houses. Charles Ritchie argued that "if the young were to grow up in moral and physical strength, the courts and alleys which bred disease must be rooted out".[14] Lyon Playfair, who had been a Commissioner for the 1844 - 45 Royal Commission on the Health of Towns, argued that "money spent in sanitary improvement is not merely invested for posterity, but is productive taxation even to themselves, for it is capital bearing abundant interest".[15]

Similarly, the improvement scheme approach was advanced as a means to social efficiency. In particular, it was viewed as a means of diminishing crime and unsocial behaviour. Cross referred to the improvement schemes of Glasgow (1866) and Edinburgh (1867), which had been authorized under private Acts, and claimed that one of their consequences was that "many nests of crime have been broken down".[16] Another related consequence was "the lessening of the number of brothels in the city [Glasgow] - namely, a decrease of from 204 to 20 and this in the space of three years, from 1870 to 1873".[17] Kay-Shuttleworth further argued that the Bill would help the "considerable numbers" of the industrious classes who lived amongst "thieves and others of the most debased classes" to maintain their good influence. He cited Octavia Hill to illustrate his argument:

> The near presence of honest, respectable neighbours makes habitual thieving impossible: just as dirty people are shamed into cleanliness when scattered among ordinary, decent folk, and brought into the presence of the light.[18]

Lyon Playfair claimed that "thieves, prostitutes and out-door paupers" were the chief inhabitants of the "rookeries" and that "their dispersion is one of the greatest advantages of such a measure".[19] Lord Aberdare "believed that a very great diminution of crime would result from such improvements as were contemplated by this Bill",[20] and Lord Napier and Ettrick wanted the provisions of the Bill extended so as to permit a more active attack on crime:

> There were in many of the large cities and towns localities which were the resorts of the vicious and criminal classes, and which ought on that ground to be swept away but which, being perfectly healthy, could not be touched under the provisions of the Bill.[21]

On another major issue, centralization, there was little debate. Generally it was thought best to leave decisions about the implementation of improvement schemes to the local authorities as long as provision was made for a centrally directed inquiry when called for. Cross took the position that compulsion was not necessary as "he was certain the local authorities in those great towns would carry out the provisions of this measure".[22] The Earl of Beauchamp remarked that "if a Local Authority was really determined to do nothing, it would be difficult to coerce it by means of a Central Authority".[23] Playfair did not want to see compulsion but he thought that cases of negligence should be inquired into by a central authority because "such confirmations of well-considered sanitary inquiries would throw a heavy responsibility on the local authorities, and would create a public opinion which would enforce action".[24] This was also the view of Kay-Shuttleworth. Sir Sydney Waterlow, however, as the chairman of

the largest of the model dwelling companies, declared that he had little faith in the local authorities and called for compulsory powers for the central authority.[25]

There was little discussion, either, of the role of technical experts vis-a-vis the elected members. Cross took the view that, since only sanitary considerations were involved, "the Act should be put in motion by the medical officer of health".[26] This was also the view of Kay-Shuttleworth and Playfair, who called for greater independence for the medical officer.[27] There was even less discussion of the direct role of the public in the operation of the Act. An exception was Ritchie, who wanted to know "what appeal or remedy was left to the ratepayers, supposing that the medical officer was not satisfied of the existence of the evil, or if the local authorities were not convinced" of the need for action.[28]

A much larger issue for Parliament, as Cross had anticipated in his opening remarks, was the relationship between the Bill and the principle of State aid for the working classes. This was of crucial concern during the last quarter of the nineteenth century and the first decade of the twentieth century, for it lay at the very heart of the debate that was being forced upon Parliament by conditions of continuing widespread poverty and the increasing threat of foreign competition, which emphasized the necessity of a healthy and productive workforce. Given that it was in the national interest to try to offset these conditions, how far could the State properly intrude upon private rights in the process?

In the case of the 1875 Bill, it was realized that a subsidy to working-class housing from the local rates (i.e. property taxes) was being asked for, since the expense of acquiring slum property, demolishing the unhealthy dwellings, and building sanitary dwellings for the working classes would clearly exceed the income produced by the redevelopment. But, through the utilitarian rationale which was advanced in support of the Bill, it was reasoned that 'improved' environment would raise the people's standards of health and behaviour, thereby reducing disease and crime. Thus, the initial expense of slum clearance and rehousing would be amply repaid in time. And since the most obvious long term benefits would rest in the individual municipalities which carried out improvement schemes, the important principle of local financial responsibility was also at stake. Sir Seymour Fitzgerald expressed it best: "In clearing unhealthy districts which cause disease and crime, it was only just that the local ratepayers, who would be largely benefited...bear a proportion of the expense."[29]

At the same time, however, there were several defences of the doctrine of laissez-faire. Henry Fawcett, the liberal political economist who was later to present "one of the most cogent and powerful treatises against municipal socialism in housing matters",[30] argued that "if they once sanctioned the principle of a person living in a house erected by public money at a rent less than the market value they would be doing a thing which was an injustice to the ratepayers".[31] He also asked "whether it was intended to be laid down as a principle that the working classes, to whom political power

had been given, were an exceptionally helpless section of the community, and could not attend to these matters themselves"?[32] Sir James Hogg said that "it was no part of the business of Parliament to do anything towards providing the necessaries of life for the people, and that the works effected under the measure should be of a purely commercial character".[33] In the same vein Walter James "wanted to see how far the Bill would proceed on sanitary grounds rather than in the matter of providing dwellings for artizans. Ought not the erection of houses for this purpose to proceed solely on commercial grounds", he asked.[34] Still, these doctrinal arguments proved inadequate against utilitarian logic, and the principle of subsidized building sites for working-class housing passed into law through the Cross Act.

Two final contributions to the 1875 debate are worthy of special note. The first came from the Earl of Shaftesbury, who had played a leading role in earlier housing reform but was noticeably reticent in his support of the Bill (he favoured renovation rather than demolition followed by rebuilding). Judging by his words, he despaired of ever seeing improved housing for the working classes:

> I would not have spoken on the present occasion had not the subject before us been one on which I have been engaged ever since 1843; one to which I have devoted a great deal of time and attention; and yet I am no nearer the solution of the problem than when I began it.[35]

There was also one person who anticipated the direction in which the legislation and urban development would eventually move. Lord Robert Montagu criticized the high-rise tenement buildings

erected by the model dwellings companies because they "stopped the free circulation of air in a town". He then continued:

> The necessity for these barracks could only be avoided by empowering local authorities to take sites compulsorily outside a town. There was no such power, however, in the Bill. No doubt a Cabinet composed of landed gentry might find some difficulty in making up their minds to interfere with the rights of Landlords: but those rights had already been interfered with by the railway companies, and certainly there was a stronger case to be made in favour of the health of the people than of the railway companies. If powers of compulsory purchase were extended in this way to the country, rents would be lowered, dwellings would be more healthy, towns would be less crowded, and many of the working-classes would have gardens and the sight of green fields.[36]

Roebuck had presented essentially the same argument in 1832, and it was a common theme with reform advocates in the late nineteenth century, culminating in the garden city movement. It was also given tentative legislative expression in the compulsory purchase power of the 1885 Housing Act, and played a large part in shaping the concept of the town planning scheme which first appeared in the Act of 1909, but not until the 1920s did the municipal ownership of suburban land become an effective element of housing reform.

The Terms of the Cross Act

The debate indicates a general agreement as to the need for such a measure as Cross proposed. The debate also indicates that the rationale for such a measure was ultimately based on a desire for efficiency and order. It was primarily on this basis, and not on humanitarian grounds, that compulsory large-scale State intervention

with private property and an indirect subsidization of working-class housing was permitted.

The Preamble indicates that the Act was intended primarily as a sanitary reform measure. It opens with the following statement:

> Whereas various portions of many cities and boroughs are so built, and the buildings thereon are so densely inhabited, as to be highly injurious to the moral and physical welfare of the inhabitants....

No further mention is made of this moral purpose, though it is apparent from the debate that moral improvement was directly identified with environmental improvement, and so might have been implicitly anticipated from actions taken under the Act. The expected reduction in crime could certainly be seen as a measure of moral improvement.

The remainder of the Preamble, however, clearly indicates an overiding concern for the unhealthy consequences of inadequate sanitary and structural arrangements:

> And whereas there are in such portions of cities and boroughs as aforesaid a great number of houses, courts, and alleys which, by reason of the want of light, air, ventilation or of proper conveniences, or from other causes, are unfit for human habitation, and fevers and diseases are constantly generated there, causing death and loss of health, not only in the courts and alleys but also in other parts of such cities and boroughs:... And whereas it is necessary for the public health that many of such houses, courts, and alleys should be pulled down, and such portions ... should be reconstructed: And whereas in connexion with the reconstruction of those portions of such cities and boroughs it is expedient that provision be made for dwellings for the working class who may be displaced in consequence thereof.

The Act was to be put in motion by an official report of the local authority's medical officer stating that an area was characterized by houses or courts that were "unfit for human Habitation", or that "diseases indicating a generally low condition of health amongst the population have been from time to time prevalent in a certain area". These conditions also had to be "reasonably attributed to the closeness, narrowness, and bad arrangement or the bad condition of the streets and houses or groups of houses ... or to the want of light, air, ventilation, or proper conveniences, or to any other sanitary defects ... [such that the defects] cannot be effectually remedied otherwise than by an improvement scheme for the re-arrangement and reconstruction of the streets and houses within such area." A similar emphasis on the structural prerequisites of health is evident in the clause governing the scope of the improvement scheme, which "may also provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health".

An improvement scheme had to provide for "the accommodation of at least as many persons of the working class as may be displaced in the area... in suitable dwellings, which, unless there are any special reasons to the contrary, shall be situate within the limits of the same area, or in the vicinity thereof; it shall also provide for proper sanitary arrangements". The local authority would then sell or lease the cleared land to societies or companies which would undertake to build suitable working-class housing.[37] The local authority, with the approval of the Local Government Board (or the Secretary of State in the case of London), could build the dwellings but unless special

permission was obtained, the property had to be sold within ten years.

The Machinery of the Cross Act

The Act, which was applicable in towns with a population greater than 25,000, could be put into operation in two ways. The more usual was through the action of the medical officer of health. It was his duty to inspect the area under his jurisdiction and to present an official report to the local authority if any part of that area was found to be unhealthy. The criteria for determining an unhealthy area have already been mentioned. On receiving the report, the local authority were to consider it and decide whether or not to proceed with an improvement scheme. No council member with financial interest in the area in question could vote on the resolution. If the local authority decided not to undertake an improvement scheme, they were to forward to the Local Government Board a copy of the medical officer's report and the reasons for deciding against his recommendation. The Board could either leave the matter as it was or "direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation made to the local authority".

Action could also be initiated by twelve ratepayers, who could appeal directly to the Local Government Board if the medical officer, after being notified by twelve or more ratepayers that an area was unhealthy, failed either to inspect the area or to present an official report, or if he declared the area healthy. If the Board

was convinced that the ratepayers were capable of paying the costs of an inquiry, the Board was to appoint a medical officer of its own to investigate the area and report his findings. If the area was found to be healthy, the costs of the inquiry were to be borne either wholly or partly, at the Board's discretion, by the ratepayers but if the area was found to be unhealthy, the local authority was responsible for the costs. In the case of an unhealthy area, the report of the Board's medical officer was presented as an official report to the local authority, who would then decide whether or not to proceed with an improvement scheme.

If the decision was in favour of proceeding, an improvement scheme had to be drawn up "forthwith". The local authority were then to give notice of the draft scheme in the local newspapers and to notify the owners and lessees of property proposed to be taken compulsorily. The owners and lessees were also asked to reply in writing whether or not they objected to the draft scheme, so that their opinions could be forwarded to the Board along with the local authority's petition for approval. The Board could either reject the petition or accept it, but in the latter case it had to conduct a local inquiry to determine the correctness of the medical officer's report, the sufficiency of the scheme, and local objections to the scheme. On the basis of this inquiry, the Board could either reject the scheme or accept it in its entirety or with modifications. If it decided for approval it would then draft the scheme into a provisional order for confirmation by Parliament.

The key documents in an improvement scheme plan were a large-scale map of the affected area and a book of reference. The former designated with absolute precision, the properties that were authorized for compulsory purchase, while the book of reference, which was compiled from the tax rolls, was a complete inventory of all those properties, with their owners and occupiers. The map also had to designate the alignments of new or widened streets, and so outlined the new pattern of blocks of building land. Beyond that, however, no redevelopment details were required, and the rehousing requirement was simply treated by a statement in the provisional order. The redevelopment plan was thus left entirely in the hands of the local authority.

Evaluating the Cross Act

Following the criteria established in Chapter II, it is clear that efficiency was central to the Act. It was designed as a method of abolishing unhealthy urban areas which were seen to have economically and socially harmful consequences. In every respect, in principle if not in practice, it was a more efficient method of sanitary reform than the preceding measures which were confined to the improvement or removal of individual houses and were ineffective; they failed to attack the slum problem on an adequate scale and without provision for rehousing, the inhabitants of condemned buildings simply moved to other slum areas or created new slums. The Cross Act, on the other hand, permitted entire areas of insanitary dwellings to be demolished and provided for the displaced inhabitants to be

rehoused in sanitary dwellings.

It is also clear that the Local Government Board, which was the central authority in charge of the administration of the Cross Act,[38] regarded the Act in terms of sanitary reform and a utilitarian ethic. The following observations have been selected from various of its annual reports:

> The effect of the [Cross] Act is to enable local authorities....to frame and take steps for carrying into execution schemes for the improvement of unhealthy areas. [1876]
>
> The Board trust that the Sanitary Authority will take advantage of the facilities referred to by promoting schemes under the principal Act [the 1875 Cross Act], so that the serious injury to the public health in large towns, caused by the existence of unhealthy areas, in which large numbers of the working classes are now compelled to dwell, may be removed with the least possible delay. [1880]
>
> It is scarcely necessary to point out how desirable it is that the dwellings of the poorer class in the Metropolis should be improved, or how much such improvements would tend to prevent pauperism, which is often the result of disease caused by insanitary dwellings.[39] [1883]

The power of the State over private property rights was substantially increased and the technical method of the Cross Act (i.e. the improvement scheme), was a decisive advance from the earlier uncoordinated interventions, but this new development was conceived strictly in terms of sanitary reform. Smith, in the context of Edinburgh's improvement schemes, the first of which provided a model for the Cross Act, notes a progression from projects in which slum clearance was a secondary goal to street improvements,

to those which had slum clearance as their first objective while the street improvements were secondary. This was decisive: "The critical step had been taken by which the modern planning movement was rendered one with the sanitary reform movement."[40]

MODIFICATION OF THE CROSS ACT

The Artizans and Labourers Dwellings Improvement Act of 1879

The Cross Act was amended in 1879 in response to pressure from the Metropolitan Board of Works to permit commercial use of cleared sites.[41] The Act of 1875 stipulated that unless there were "special reasons to the contrary", rehousing had to be situated within or in the vicinity of the cleared area. However, it was found that the provision of working-class housing in central London was prohibitively expensive,[42] and that costs would be much reduced by selling cleared sites for commercial purposes and using the money to buy building sites away from the central part of the city. So, in the name of cost efficiency, the 1879 Act permitted "equally convenient accommodation" to be provided for the displaced slum dwellers at other locations. How "equally convenient accommodation" could be provided at sites further from the central areas was not specified. Three years later the Select Committee on Artizans and Labourers Dwellings Improvement reported that "the existence of accommodation for transit by railway, boat, or tramway," would form an important element in considering what was a reasonable and suitable distance.[43]

A Reaffirmation of the Sanitary Reform Conception: the Parliamentary Debate The Bill, introduced on the 5th of August and given the Royal Assent on the 15th of August, received little opposition, although outrage was expressed at the amount of compensation being paid for slum property. George Shaw-Lefevre "complained of the enormous compensation given for the property acquired by the Metropolitan Board under the Act of 1875 and also of the exorbitant sums charged in the shape of fees by arbitrators."[44] The Earl of Camperdown expected that "their Lordships would naturally inquire how it happened that so large a compensation was given to persons who had no claim to liberal treatment?"[45]

Such debate as there was clearly indicated that sanitary reform was the dominant object of the two Cross Acts and efficiency was the justification. The expected beneficial consequences of redevelopment were also reaffirmed. In the words of the Earl of Beauchamp:

> It was a famous saying of Napoleon that they could not make omelettes without breaking eggs. It was equally impossible, in a city containing some 4,000,000 of inhabitants, to get rid of those centres of disease and infection without incurring considerable expense.

But this expense, he went on to reason, would be more than recompensed:

> Even in Glasgow and Edinburgh, when a building had been removed and replaced by another, a substantial pecuniary benefit had been derived. For one thing the rateable value would be increased, and the indirect benefits would also be considerable, because it was an ascertained fact that the improvements were always attended by a diminution of disease and pauperism.[46]

Disraeli, now the Earl of Beaconsfield, also stressed the sanitary nature of the Cross Act:

> Unless they dealt with areas they could not secure a change in the sanitary condition of a great city like London... I do not believe that there was any measure ever brought forward more desired by the country, or more approved by it, or which more completely effected the object it had in view - namely, the improvement of the sanitary condition and health of the people of this country.[47]

A PARLIAMENTARY INQUIRY INTO THE OPERATION OF THE CROSS ACT

Dissatisfaction with the operation of the Cross Acts, and particularly with the high cost of compensation, was expressed in Parliament, the national press, and public meetings in the late 1870s and early 1880s.[48] The Government responded, in 1881, by appointing a Select Committee on Artizans and Labourers Dwellings Improvement which was to consider the operation of the Cross Act and its amending Act of 1879:

> With a view of considering how the expense of and the delay and difficulty in carrying out these Acts may be reduced, and also of inquiring into any causes which may have prevented the reconstruction of dwellings for the Artizan Class to the full extent contemplated and authorised by these Acts, and or recommending such Amendments as may be most expedient for carrying out the full intention of these Acts.[49]

However, there was no questioning of the principle of the Cross Act (State sanctioned restructuring of the urban environment for the public welfare) and its rationale (that such restructuring would result in an improved environment, both physically and socially, and that this improvement would yield substantial economic and

social benefits for society). The Committee, composed of Cross, Torrens, Waterlow and Arthur Balfour, presented their full Report in 1882.

A materialist conception of man was confidently stated as the theoretical basis for intervention with the urban environment:

> Your Committee are of opinion that nothing will contribute more to the social, moral, and physical improvement of these classes [the working classes] than the improvement of the houses and places in which they live.[50]

Further on in the Report the underlying efficiency rationale for the intervention of the State was alluded to in passing. It was pointed out, for instance, that the new buildings erected through an improvement scheme would have a higher rateable value than the previous buildings. Chadwick's notions of political economy were also spelled out, yet again:

> The ratepayers will no doubt reap advantage in the future (as pointed out by the Rev. S.A. Barnett, the Vicar of St. Jude's, Whitechapel, and an experienced poor law guardian) from the improved health and morals of the people, and consequent decrease of burden on the rates, for "preventable sickness is the most costly of all things".[51]

In general, however, there was no need to stress the efficiency rationale as the validity of the Cross Act was unquestioned.

The Committee found that one crucial assumption was not being realized, namely, that "in clearing out the rookeries for the benefit of the whole community the persons driven from those rookeries should

not be damaged by it".[52] In particular, few, if any, of the dispossessed families were finding new homes on the redeveloped sites. "The buildings of the Peabody Trustees appear to be somewhat beyond the means, and unsuited to the wants and special callings, of the poorer class of persons occupying areas which it had been necessary to deal with under the Act of 1875."[53] This information caused little concern, however, and the Committee merely hoped that "the Peabody Trustees may find it consistent with the provisions of their trust in any additional buildings which they may erect to make provisions suited to the means and to the wants and special callings of a poorer class than that for which they have hitherto provided".[54]

The Committee was primarily interested in how to reduce the cost of improvement schemes "so far as can wisely be done, while at the same time giving full effect to the intention and spirit of the Acts".[55] Three main sources of cost were identified: compensation to property owners, the arbitration procedure, and the obligation to provide sites for rehousing the people displaced. A number of changes were recommended to reduce the cost of compensation and arbitration. The committee also acknowledged that the amending Act of 1879, which provided for the use of other sites for rebuilding, "went far to meet the [financial] difficulty," as valuable land in central locations could be sold for commercial purposes at much higher prices than "for such comparatively unremunerative purposes as artizans' dwellings".[56] However, it was recommended that the rehousing obligations should be further relaxed to reduce the cost of implementing the Cross Act. In the case of provincial towns it was agreed

that "there does not seem to be the necessity for insisting on the rebuilding of houses for the classes displaced".[57] As for London, despite ample evidence of overcrowding, the Committee urged that there be a relaxation of the obligation to rehouse at least as many people as were displaced during slum clearance. It was also recommended that shops be incorporated in the rehousing projects. In recognition of the increasing cost of land in central London and the consequent difficulty of providing centrally-located dwellings for the working classes, the Committee recommended that the workmen's trains offered by the Great Eastern Railway be extended to other railways to facilitate migration to the suburbs where building land was cheaper.

Over all, it has to be concluded that the Report was a narrowly conceived examination of the major housing legislation. Attention was concentrated almost entirely on the cost-efficiency of the procedures required by the Acts and not on an evaluation of their environmental results.

The Legislative Response: The Artizans Dwellings Act of 1882

The recommendations of the Select Committee were carried into law in the Artizans Dwellings Act of 1882. It was in two parts; the first amended the Cross Acts of 1875 and 1879, and the second amended the Torrens Acts of 1868 and 1879. For London, the rehousing obligation was reduced to one-half of the persons displaced. Elsewhere, the rehousing obligation was withdrawn entirely. The criteria

for determining compensation were also tightened and the arbitration procedure was simplified to reduce costs. Part II amended the Torrens Act to enable the local authorities to demolish a building which "although not in itself unfit for human habitation is so situate that by reason of its proximity to or contact with any other building...it stops ventilation, or otherwise makes...such other buildings to be in a condition unfit for human habitation". The cleared site was to be left open. The Act also provided that the costs of such demolition should be borne by the owners of property which increased in value because of the clearance of the building, to the extent that the property value increased. This was the first statutory provision for 'betterment'.[58]

The Bill passed through Parliament with little opposition, even to the betterment clause. Cross said that "it was only fair that those whose property was improved in this way should contribute something to the cost" of improvement.[59] The only counter arguments came from Mr. Whitley, who thought that the betterment principle would be "very prejudicial to the interests of owners of property", and would affect mainly poor people, and from Mr. Warton who protested that "a man had a right to enjoy his property without being subject to a demand to pay for improvements which somebody supposed increased the value of the house".[60]

Evaluating the Act. In one vital respect, the 1882 Act signified a retrogression from the Cross Act of 1875. Which had stipulated that slum clearance had to be accompanied by rehousing in the same area.

Four years later, the amending Act of 1879 permitted the displaced inhabitants to be rehoused elsewhere, i.e. away from central areas to where land was cheaper. But then, by withdrawing the rehousing obligation, the Act of 1882 reduced the Cross Act to little more than a device for demolishing unhealthy residential areas (that is, slums) and leaving the sites free for commercial development (for the slums were often located in central areas of the city). The Act of 1882 was thus a narrowly conceived sanitary reform measure which ignored the experience of the legislation of the 1850s and 60s which led to the Cross Act. It also represented an increase in the power of the State through the betterment clause, since this enabled the State to charge individual property owners for improvements resulting from an activity of the State.

A GROWING CONCERN: HOUSING IN THE WIDER CONTEXT

In the 1880s the Victorians became aware, as never before, that despite the nation's swift and unparalleled advance in material prosperity and technological progress, a very large part of the nation could not afford, on a regular basis, the necessities of a healthy life and were still living in conditions that had been defined some thirty years earlier as "unfit for human habitation".[61] Particularly disturbing was the realization that industrious and abstemious workmen were caught in these conditions. Such revelations were utterly incompatible with Victorian conceptions of civilization and gave the lie to the laws which were thought to govern the operation

of their world, namely, that in a laissez-faire environment the industrious individual could always maintain his family adequately. This revelation compelled the State to intervene further with society, for the condition of the working classes, and particularly their housing conditions, was perceived as a threat to the State and the nation.

There were two components to this necessity. First, the State professed a certain ideology which bestowed legitimacy on it. This ideology, in part composed of religion and the tradition of a representative Parliament, could not wholly disregard the poor conditions of working class life. As Viscount Granbrook said in a debate on working class housing in 1884, "the State had a great duty... of a moral kind".[67] Certain appearances had therefore to be maintained. The second component had to do with the physical maintenance of the nation. There was a fear that the conditions the working classes were compelled to live in would foster a populace that had no recognition of property rights or established order - in short, a fear of revolution. There was also a fear that these conditions would result in a workforce weakened and deteriorated by disease, a drain on the State and unable to compete in economic and military terms with other powerful nations such as Germany. These concerns for the maintenance of the nation were to become more pronounced and explicit at the turn of the century, when they became known by the term 'national efficiency'.[63] They will be discussed later.

The Origins of the Royal Commission on the Housing of the Working Classes

The housing of the working classes had been the subject of concern to a segment of society from the 1830s, but it was not until the 1880s that it became a major national concern. The reason is attributed, by a number of writers, including Lynd, Stedman-Jones and Wohl, to the publication of the pamphlet ascribed to the Rev. Andrew Mearns, The Bitter Cry of Outcast London, in the autumn of 1883. It described, in vivid terms, the terrible conditions of life in East London, and its influence was far-reaching.[64] Wohl writes:

> The agitation stimulated by The Bitter Cry was not short-lived or fruitless, for it forced both political parties to pay attention to housing conditions within working-class districts, and led directly to the appointment of the Royal Commission on the Housing of the Working Classes.[65]

The Marquess of Salisbury's article, 'Labourers' and Artisans' Dwellings', in the November 1883 issue of the National Review, also had an important influence upon public opinion.[66]

On the 22nd of February, 1884, soon after Parliament reassembled, Salisbury moved to appoint a Royal Commission to investigate the housing of the working classes. His speech was of outstanding significance.[67] It was the first and most clearly conceived realization, in a parliamentary context, that overcrowding, not sanitation, was the most serious housing problem:

> It has not been noticed sufficiently that the great and peculiar evil is the overcrowding of the poor, and that all the remedies which are proposed for these other

> evils [inadequate sanitation], instead of diminishing overcrowding, only tend to exaggerate it.... As long as you confine your attention to purely sanitary legislation and do not bear in mind this difficulty of overcrowding, which is really the dominant one, your sanitary legislation will be in vain.[68]

The problem of overcrowding had far-reaching considerations. It involved, for instance, the question of the supply of capital to working-class housing, and the question of State aid and morality. These were wider considerations than sanitary reform. Salisbury did not explicitly propose State aid to housing, but the whole tenor of his speech indicated a belief that it was required in some form. He reminded the Earl of Wemyss (the leader of the Property and Liberty Defence Association) that "there are no absolute truths or principles in politics," in prepation for his argument that the conditions the working-classes were compelled to live in posed a threat to the safety of the State:

> We must never forget that there is a moral as well as a material contagion, which exists by virtue of the moral and material laws under which we live, and which forbid us to be indifferent, even as a matter of interest, to the well-being in every respect of all the classes who form part of the community. If there be material evil, disease will follow, and the contagion of that disease will not be confined to those amongst whom it arises, but will spread over the rest of the community. And what is true of material evil is true of moral evil too.... After all, whatever political arrangements we may adopt, whatever the political constitution of our State may be, the foundation of all its prosperity and welfare must be that the mass of the people shall be honest and manly, and shall have common sense. How are you to expect that these conditions will exist amongst people subjected to the frightful influences which the present overcrowding of our poor produce?.... My Lords, these conditions are not conditions of a physical or material deterioration

> only; but they are conditions deleterious and ruinous to the moral progress and development of the race to which we belong. How can you hope that any of the home influences, which, after all, are the preserving and refining influences, which keep men good amidst the various temptations of life - how are you to hope that these influences are to flourish in such a state of things as this?[69]

He went on to say that the housing conditions of the working classes made the hope of popular education vain and encouraged resort to the public-houses. The task of the proposed commission would be to furnish information on the housing problem, for, he said, nothing could be done to remedy the problem, "unless you possess sufficient knowledge of the precise character of the evil".[70] Salisbury concluded his speech with an emotional appeal similar to the one used by Cross in his speech in 1875:[71]

> My Lords, I hope Parliament will never transgress the laws of public honesty, but I equally hope that Parliament will not be deterred by fear of being tempted to transgress those laws...from fearlessly facing, and examining, and attempting to fathom these appalling problems, which involve the deepest moral, material and spiritual interests of the vast mass of our fellow-countrymen.[72]

Several other members also expressed the concern that the housing problem constituted a threat to the State. Shaftesbury, for one, declared:

> Of this he was quite sure, that there was no hope for the dignity, there was no hope for the safety of the Empire, unless it be founded upon the comfort, the health, and the purity of the hearths and homes of the working classes.[73]

Arthur Balfour, a nephew of Salisbury's and a future Prime Minister (1902-1905), stressed the non-party nature of the housing problem. "The House", he said, "ought to approach this question neither in a Party nor in a sentimental spirit, but in a critical spirit, as physicians rather than as politicians..."[74]

The only opposition was voiced by the Earl of Wemyss, who argued that, although "it was the duty of the State to interfere in sanitary matters", the State should not intervene in housing - a field which should be left to philanthropic agencies such as Octavia Hill's. "What Parliament ought to do", he said, "was to guard against State interference." There was no need, he said, for a Royal Commission on housing as all the necessary information was already available.[75]

A Change of Emphasis: The Royal Commission on the Housing of the Working Classes 1885

The Royal Commission on Housing is significant for the development of the idea of town planning because it recognised an enlarged conception of the public welfare and accepted, however reluctantly, that further State intervention in the urban environment was necessary if the public welfare was to be realized. In this, it presented a far wider appreciation of the housing problem, and its implications for society and the State, than the Select Committee of 1881-82. The Select Committee was primarily concerned with the cost-efficiency of administering the legislation and so recommended changes, such as the withdrawal of the rehousing obligation, which were really inefficient

in the wider context of the social body. The Royal Commission, however, was concerned with determining exactly what the housing conditions of the working classes were like and identifying the causes of such conditions. The Commission covered such subjects as "the availability of accommodation, rents, building costs, vestry activities, the model dwelling movement, leases and overcrowding and the cost of living".[76] The prime concern, though, was with overcrowding and its implications for the moral and physical condition of the working classes, not for their own sake but for society's. The dominant concern, and this is most clearly evident in the Lords debate on the Royal Commission and the debate surroudning the Housing Act of 1885, was that overcrowding fostered patterns of behaviour which undermined society. Overcrowding was also seen as a threat to physical health:

> Carelessness on the part of mothers is an accompaniment of overcrowding, and to these causes was ascribed the high death rate among infants under five years of age in certain areas.... The general deterioration in the health of the people is a worse feature of overcrowding even than the encouragement by it of infectious disease. It has the effect of reducing their stamina and thus producing consumption and diseases arising from general debility of the system whereby life is shortened.[77]

The miasmatic theory of disease was still influential, for the Report declared: "What is needed is unused air".[78] These beliefs encouraged a concern for building standards and made the lower density suburbs look very attractive to those concerned about overcrowding, though this approach was not, in 1885, held to be practicable on a large scale.

The necessity for further State intervention was amply illustrated in the Report's massive Minutes of Evidence which recorded, in relentless

and terrible detail, the conditions of the working classes. It affirmed, in incontrovertible terms, that the descriptions of Mearns and others were not exaggerated accounts of exceptionally bad areas within working class districts, and that the honest and industrious labourer or artisan was inescapably bound up in these conditions. The inadequacy of the local authorities and their reluctance to promote decent housing standards were also clearly revealed. In short the Evidence was an enormous and uncompromising indictment of the values and structure of Victorian society. It is not surprising that the Commissioners failed to accept the full extent of the conclusion demanded by the evidence, namely, that the State should accept direct responsibility for the housing of the poor at the public expense. There were no less than nine Memoranda separate to the unanimous Report, each urging a different policy. In Lynd's words, the Royal Commission was "a continuous tug of war between laissez-faire theories in support of private enterprise and various proposals for municipal housing and government purchase, with all manner of modifications of theories to meet specific emergencies on the side lines".[79] The Report nevertheless affirmed the need for further State intervention with the urban environment. It recommended that the Shaftesbury Act of 1851, which permitted local authorities to build dwellings for the working classes, should be put into operation, reversing the trend of housing legislation since 1879 with its emphasis on demolition and reduced rehousing obligations. This recommendation, made in response to the evidence linking overcrowding with socially harmful behaviour, represented an enlarged conception of the public welfare, for moral conditions were

now strongly emphasised, although physical conditions retained first importance. It was also a recognition that the Artizans Dwellings Act of 1882 was an inadequate form of State intervention. The need for greater centralization was agreed upon, as well. An example was the recommendation that the Local Government Board be given the power to force local authorities to implement an improvement scheme under the Cross Act if conditions warranted it.[80] The Report also recommended that certain disused prison sites in London be given to model dwelling companies for housing sites.

The Legislative Response: The Housing of the Working Classes Act of 1885

On the 13th of July 1885, shortly after the Royal Commission presented its Report, Salisbury introduced a housing Bill which embodied several of its recommendations. The lengthy and often sharp debate centred on the welfare role of the State, and made it clear that many members of both Houses of Parliament viewed the Bill with alarm, as the introduction of State socialism. However, the Bill passed through Parliament essentially intact, receiving the Royal Assent on the 14th of August as the Housing of the Working Classes Act 1885.

Salisbury's introduction of the Bill was similar to his speech calling for a royal commission to be established. He re-emphasised the distinction between problems of sanitation and problems of over-crowding, and then advanced a rationale for State intervention with housing which stressed that the stability and identity of the nation

were dependent on the condition of its people.[81] Others expressed similar views. The Earl of Milltown, for example, said: "The evils [disclosed by the Royal Commission] were little short of a scandal to their civilization, and constituted a real danger to the commonwealth".[82]

The Bill contained a clause which enable the Local Government Board, upon complaint by a local authority or by a property owner, that a local authority was not doing its duty with regard to the Torrens and Cross Acts, to conduct a local inquiry, and if satisfied of the complaint, to order the defaulting authority to put the Act into operation. Salisbury and Cross supported this measure, arguing that greater central direction was necessary because the expense of improvement schemes and the opposition of vested interests often deferred local authorities from using the Cross Acts.[83] The clause passed the Lords without opposition but objections were voiced in the Commons. Jesse Collings argued that the clause would make it possible for a sanitary inspector to be independent of the local authority - a situation that would weaken local government.[84] In Committee, J.R. Hollond proposed an amendment to drop the clause. The amendment was passed without argument.

The issue of subsidized housing for the working classes in particular, and the proper role of the State in the provision of subsidies, formed the chief subject of debate. The Bill proposed that the Shaftesbury Act of 1851 be reenacted and that certain disused prison sites in London be sold to the Metropolitan Board for a nominal sum

for the purpose of working-class housing. These proposals provided a launching point from which the debate on the role of the State proceeded.

Salisbury had already given notice of his attitude towards State aid in his speech on the need for a housing commission. In the debate on the Bill he again made it clear that he held no doctrinaire belief in laissez-faire and that he was prepared to accept State subsidization of housing if the welfare of the nation demanded it.[85] A few days later Salisbury defended the principle of State aid in greater depth in response to a long diatribe by Wemyss against the socialistic tendencies of recent legislation, of which, he said, Salisbury's Housing Bill was an example. Salisbury maintained that tradition and efficiency required that the State provide aid for the poor:

> Whenever we come to deal with this question of using public funds for the benefit in any way of the community, there stares us in the face the fact that the duty of sustaining the most necessitous class of the community by public funds has for three centuries formed a part of the law of England. That is so strong a fact that it vitiates every argument you can use from what is called sheer principle against measures of that kind .... It is not only that we do sustain the poor by law, but the fact that we do it must necessarily affect the rest of our legislation, for a good deal of our legislation which my noble Friend calls Socialistic is defended by this - that unless you use the public resources in this or that way to benefit the poor, you will reduce them to so much distress that you will have to spend a great deal more by succouring them by means of the Poor Law.[86]

Collings argued that municipal ownership of land was the only answer to the housing problem:

> The only solution of the difficulty was first to create a real Local Authority of a purely elective character, and then to empower it to acquire the land and the dwellings in all those districts which were scheduled as populous. If the Local Authority acquired them at a fair price...competition rents would be stopped. The Municipal Authority would have no interest, like private individuals, in making a profit out of the degradation and the poverty of the people who were compelled to live in a populous district; or if a profit were made it would not be frightened by the word 'Socialism' which simply meant the interdependence of all classes of society.[87]

Cross, introducing the Bill in the Commons, was very careful not to mention the themes of laissez-faire and socialism. Rather, he urged that State intervention to improve the housing of the working classes was an inescapable necessity. In his view, "the conditions under which the poor lived were deteriorating the standard of bodily strength and this was getting worse from generation to generation".[88] This was an early expression of the fear of national deterioration which became more pronounced at the turn of the century.

There was, of course, alarmed opposition to the principle of State aid in housing. Wemyss denounced the provisions for subsidized working-class housing and argued that state aid would undermine private enterprise,"which has been the cause of the success of all the undertakings in this country".[89] Lyulph Stanley unsuccessfully moved an amendment at the second reading that "it is inexpedient at this stage of the Session to initiate legislation involving the principle of a national subsidy towards aiding any locality in providing dwelling houses for the working classes in such locality". The reason lay in

his belief in the values of individualism and the local community:

> He thought he should have the support of the Home Secretary [Richard Cross] for the general principle that the true remedies for the evils which existed were those which raised up the self-respect and self-reliance and self-help of the people and their administration in their local communities.... If they were to adopt Socialism in any form let it be local and municipal Socialism which would be kept in sufficient restraint by the votes of the ratepayers. But if once they introduced State Socialism, there might be no end to the demands that would be made.[90]

James Bryce similarly regarded the Bill as an attempt to introduce State-subsidized housing - a policy which was misguided since "all improvements in the condition of the poorer classes of the community must be gradual, and must result from the growth of better habits among the working classes themselves".[91] In a similar vein John Thomasson thought that State-aid would "discourage prudent habits, because the frugal would find themselves taxed for the improvident".[92] There were many others who were alarmed by the clause involving the transfer of prison sites to the Metropolitan Board and the clause was amended to read "at a fair market price". There was, however, little opposition to the renewal of the Shaftesbury Act of 1851.

The Terms of the Act. The Housing of the Working Classes Act of 1885 was in three parts, the first of which amended the Lodging Houses Acts, 1851 to 1885. The term 'lodging houses' was broadened to include separate single-family dwellings for the working classes,[93] and, in rural areas, cottages with up to half an acre of garden. Urban local authorities were permitted to build houses for the working classes on

their own authority and to purchase land compulsorily for this purpose. In the case of rural authorities, however, the Local Government Board had first to conduct a local inquiry to determine that accommodation was needed and that "it may be provided without imprudence as regards the ratepayers". In London, the operation of the Shaftesbury Act was now the responsibility of the Metropolitan Board, not the local authorities. The second part of the Act amended the Torrens Acts, the most important amendment being that the owner of condemned property could no longer force the local authority to purchase it. The third part made minor amendments to the Cross Act, applying it to all urban sanitary districts. In the case of London, the Secretary of State was allowed to arbitrate between the Metropolitan Board and the local authorities when there was disagreement about the need for an improvement scheme. The interest rate on loans for housing purposes was also lowered.

Evaluating the Act. Efficiency occupies a central place in the Act, though there is a development from the Cross Act. The Housing Act of 1885, with its separate provisions for municipal house building and slum clearance, reflects the Royal Commission's concern for the consequences of overcrowding and its distinction between overcrowding and sanitary reform. The concern for the harmful moral consequences of overcrowding, in particular, indicates a developing conception of the public welfare which before had primarily been concerned with the physical welfare of the people. The renovation of the Shaftesbury Act was a recognition that the Cross Act was an incomplete instrument of State policy. The

concern for the moral condition of the people indicated a conception of the public welfare of much greater potential than the physical health conception. At the same time, however, this newly-emphasised social concern merely reflects a broadened conception of efficiency, as reflected in the Royal Commission's and Parliament's concern for the moral fitness of the nation.

The Act represents some increase in centralization through the power of the Local Government Board to rule on the adoption of the Shaftesbury Act by local authorities and the removal of the Shaftesbury Act from London's local authorities to the Metropolitan Board. This power of the Local Government Board also increased the power of appointed officials at the expense of the local council members.

A CONSOLIDATING MEASURE: THE HOUSING OF THE WORKING CLASSES ACT OF 1890

In December 1889, the newly-formed London County Council sent a deputation to the Home Secretary calling for the amendment and consolidation of the existing housing legislation.[94] Salisbury's Government acknowledged the need for such a measure and Charles Ritchie, the President of the Local Government Board, introduced an appropriate Bill in May.

The debate was short and indicated a general acceptance of the need to simplify the complex housing legislation. Housing was still conceived primarily in terms of sanitary reform, but, the importance of dealing effectively with unhealthy urban areas was the keynote of

Ritchie's description of the Bill and was characteristic of much of the debate. The Bill became law in August as the Housing of the Working Classes Act, 1890. It remained the principal housing Act until 1919.

The Terms of the Act

One prominent housing historian has interpreted the 1890 Act as an important reform measure. Tarn, in Five Per Cent Philanthropy (1973), describes the Act under the heading of 'Root and Branch Reform in 1890' and conceives of it as being representative of a new era of municipal responsibility.[95] Yet it signified little advance from previous legislation, in terms either of a developing conception of the public welfare or of additional powers.

The Act was in three main sections. Part I, entitled 'unhealthy areas', merely consolidated, with minor amendments, the Cross Acts of 1875, 1879 and 1882. Part II dealt with the Torrens Acts. Under this section the County Councils could initiate proceedings at the local level. Part III consolidated the Shaftesbury Act of 1851 and the Housing Act of 1885, with some minor changes.

A REAFFIRMATION OF UTILITARIANISM: THE HOUSING ACT OF 1900

From the beginning, State intervention with the urban environment was based on a conception of the public welfare that was strictly utilitarian in nature. Explicitly formulated in the beginning, the utilitarian rationale became commonplace and was rarely expounded at length. At the turn of the century, however, under the pressures of

international competition, the utilitarian ethic was again vigorously and uncompromisingly propounded as the basis for State social policy. This emphasis is clearly evident in the housing debates of the early 1900s.

Henry Chaplin, the President of the Local Government Board, introduced in February 1900, a Bill to amend Part III of the Housing Act of 1890. The Bill proposed to allow local authorities, except rural district councils, to acquire land outside their districts for the purposes of Part III of the principal Act (which concerned municipal housing) and to lease land acquired under Part III to individuals or companies engaged in carrying out building under the Act. The Bill prompted a series of long debates in which speakers from both sides of the House expounded at length on the seriousness of the housing problem and the necessity of improving it. Though criticized as inadequate, the Bill passed through Parliament with little amendment, becoming law as the Housing of the Working Classes Act, 1900.

The Demands of Efficiency

A majority of the speakers claimed that inadequate housing was causing high mortality and morbidity rates among the working classes and progressively deteriorating their physical and moral condition. William Robson's speech provides an example of this fear:

> No one needs to be told that overcrowding of the sort I have mentioned must be a source both of intemperance and sexual impurity.... No one needs to be told either that unless this evil is checked and driven back...a very large portion of our race will suffer for generations from weakened constitutions and broken character.[96]

This had far-reaching and serious implications for Britain's position as a world power. William Steadman asked:

> Does it stand feasible that the sons of working men born and bred in these slums which we have in London today are going to grow up healthy and sound, and with fine physique, in order that they may undergo the severe strain which our soldiers are put to at the present time in South Africa?....where do you get the industrial workers who produce the wealth without which neither this nor any other Government could go on?[97]

Frederick Maddison gives an indication of the rational, utilitarian conception of social problems:

> Here we are at the very close of the nineteenth century, with all the marvellous indications of the nation's wealth and prosperity, and yet we are allowing human beings, the most precious asset a nation can have and without which it would become derelict, to be treated in a way that no farmer who knows his business would allow his stock to be treated. When you are dealing with animals you breed scientifically and you surround them with favourable environments because you have found out that is the only way that healthy animals can be raised. The same law, subject of course to the differences between the human and the animal, exists with respect to the human being. And yet we allow this state of affairs to exist, which makes it almost impossible for a girl to preserve her purity, or for children to grow up into strong, robust, physically fit men, which they should, if we are to hold our own in the great competition, not of the barrack-room but of the workshop, where finally the fate of England will be decided.[98]

Many other speakers in the debate claimed that the consequences of poor housing conditions undermined Britain's imperial position. In another housing debate, John Burns, the Labour MP who later, as President of the Local Government Board (1905 - 1914), framed and introduced the Housing and Town Planning Act of 1909, declared that:

> If our industrial efficiency is to be maintained, and our commercial supremacy assured, it can only be done in the homes of the working classes. Let us see that strong healthy women produce strong and healthy children, and that when these children are produced they shall be reared not in palaces and surrounded with oriental luxury, but on the simple common fare out of which we shall be able to produce the men who stood the brunt of Cressy and Agincourt.[99]

Other speakers emphasized that poor housing was counter-productive to State programmes such as education and destructive of the social order. Thus Geoffrey Drage argued for example:

> It is idle to educate the children, idle to have advanced forms of primary education, if when the children leave those magnificent buildings which have been provided for education, they have to go back into the slums which have been so well described in the House tonight. Moreover, with bad houses you have an enormous increase in the death rate, of pauperism and vice. Proper housing means economy in hospitals, economy in prisons, economy in poorhouses, so that a large expenditure in this direction repays itself.[100]

Sir Walter Foster attempted to calculate the financial loss caused by preventable disease in London:

> Dr. Farr, who is the greatest authority on vital statistics that this country has ever produced, made a calculation that the community loses £159 for every man, woman, and child that dies of preventable disease. He estimated that that was the life value of the individual. We have 900,000 people in

> London living under bad sanitary conditions.... I find that according to Dr. Farr our loss amounts in London alone to £540,000 a year, and remember that to that loss must be added the amount of crime which is encouraged by this means and the amount of pauperism which springs out of it, so that on all sides the community has to pay for its want of care of the poor people. No figures could be more eloquent than these.[101]

This line of reasoning is significant for it is exactly the same as Chadwick's. Any of these arguments could be inserted in Chadwick's Report of 1842 with no incongruity. At the beginning of the twentieth century the public welfare continued to be conceived in the utilitarian terms formulated in the early nineteenth century.

The Hope of the Suburbs

A number of recommendations was advanced as a means of improving the housing problem. These included taxing land values, increasing and autonomy of local health officials, increasing the power of central authorities and prosecuting slum landlords.[102] The most promising solution, however, was generally seen to lie in municipal housing in the suburbs. This, Chaplin said, was the object of the Bill:

> The Government have proposed - the buying land outside the area by local authority. It seems to me that there would be most enormous advantage in that. It would relieve the congestion of the towns, and the people would live in a better atmosphere and under more healthy conditions, and they would have better accommodation than it is possible to provide within the limits of the towns. To make it successful it is essential that there should be cheap and easy communication.[103]

Chaplin assured the House that the powers of the Cheap Trains Act of 1883 were sufficient to ensure cheap communication.[104] Balfour was certain that the development of cheap transport, permitting cheap surburban land to be built upon, was the answer to the housing problem:

> You must trust to modern invention and modern improvements in locomotion for abolishing time.... It is not, after all, to the inventive legislation of this House that we must look, but it is to the inventive power of men of science and of manufacturers.... I believe myself that we are on the eve of an immense reform, of an immense augmentation of the means of communication. I believe that electrical traction and other forms of traction are going to play a far larger part in the solution of this difficulty than any of the strange schemes which I have analysed to the best of my ability for the benefit of the House.[105]

The large-scale utilization of suburban land for housing had important implications for the evolution of town planning for if the haphazard and wasteful growth of the past was not to be repeated, urban development would have to be planned.

THE INTER-DEPARTMENTAL COMMITTEE ON PHYSICAL DETERIORATION

The poor physical condition of the majority of recruits during the Boer War (1899 - 1902) greatly reinforced the fear that Britain was falling behind such nations as Germany and the U.S.A.[106] To meet this concern the government appointed in 1903 the Interdepartmental Committee on Physical Deterioration.[107] It was directed to do three things:

> (1) To determine, with the aid of such counsel as the medical profession are able to give, the steps that should be taken to furnish the Government and the Nation with periodical data for an accurate comparative estimate of the health and physique of the people; (2) to indicate generally the causes of such physical deterioration as does exist in certain classes; and (3) to point out the means by which it can be most effectually diminished.[108]

The Report, published in 1904, discussed a wide range of subjects including urbanization, overcrowding, air pollution, local administration, conditions of employment, alcoholism and 'the depletion of rural districts by the exodus of the best types'. The Report concluded that there was no evidence of progressive physical deterioration though there was much ill-health caused by unhealthy environmental conditions and inadequate nourishment. This confirmed the evidence of Booth and Rowntree.[109] Many recommendations were made with the object of improving physical health, particularly the health of children. These included the establishment of a system of school medical inspection, the provision of school meals for needy children, instruction in child care and cooking, and the encouragement by the State of physical training. Several of these recommendations were carried into law in the period 1905 to 1914. A recommendation was also made concerning urban development. Building by-laws drawn up by the Local Government Board should be made compulsory and attention should be given to "the preservation of open spaces with abundance of light and air". The Committee hoped that by the use of "judicious foresight and prudence the growth of squalid slums may be arrested, and districts which hereafter become urbanized may have at least some of the attributes of an

ideal garden city".[110] This affirmed the necessity for greater State control over use of the environment for the public welfare. The Report also affirmed the need for greater control over the individual for the public welfare. Several recommendations of a repressive nature were advanced as a means of improving the physical efficiency of the nation. On the subject of overcrowding, the Committee believed "that the time has come for dealing drastically with this problem". They recommended, "as an experimental effort", that a density standard be applied in the most crowded districts and the residents notified that after a certain date no overcrowding would be permitted. They believed that, "if the thing were carried through without hesitation or sentimentality, means would be found, through the ordinary channels of supply and demands, or within the sphere of municipal activity, for housing all but the irreclaimably bad".[111]

As a further means of facilitating slum clearance the Committee recommended a system of 'labour colonies and public nurseries':

> It may be necessary, in order to complete the work of clearing overcrowded slums, for the State, acting in conjunction with the Local Authority, to take charge of the lives of those who, from whatever cause, are incapable of independent existence up to the standard of decency which it imposes. In the last resort, this might take the form of labour colonies...with powers of compulsory detention.[112]

Children of parents so detained would be lodged in State orphanages or sent to foster homes. The restriction of the indiviudal freedom of certain members of society was advocated in the name of the public welfare.

THE HOUSING ACT OF 1903: THE DEVELOPING POWERS OF THE CENTRAL AUTHORITY

The powers granted to the local authorities under the Housing Acts were all permissive. The local authorities could not be compelled to carry out the provisions of the various Acts, even if an independent inquiry by the central authority indicated that the Acts should be enforced. With the Housing of the Working Classes Act, 1903, however, the central authority was given the power to enforce much of the housing legislation.

The Local Government Board could now direct local authorities to carry out schemes under the Torrens and Cross Acts if, after a local inquiry, such action was considered necessary. The Local Government Board was also granted greater autonomy from Parliament. For instance, it could now confirm improvement schemes without reference to Parliament, provided that correct procedures had been observed and that no petition had been presented against the draft scheme, within two months of its publication, by the owners of land proposed to be taken compulsorily. Furthermore, the powers of the Home Secretary under the Housing Acts (which related to London) were transferred to the Board. The Board was also given the authority to require a housing scheme if any company or individual was given the power under any general Act (except the Housing Acts), or local Act or provisional order, to take workingmen's dwellings occupied by thirty or more people, and it could order the new dwellings to be completed before any houses were demolished. The Act also extended the scope of municipal building to include,

with the consent of the Board, any building for use as a shop, any recreation ground, "or other buildings or land, which, in the opinion of the Local Government Board, will serve a beneficial purpose in connection with the requirements of the persons for whom the dwelling accommodation...are provided...and to raise money for the purpose, if necessary, by borrowing". The period of repayment of housing loans was extended from sixty to eighty years.

AN ATTEMPT TO SOLVE THE URBAN HOUSING PROBLEM BY IMPROVING RURAL HOUSING

Since the late 1880s, small holdings legislation (discussed in Chapter V) had attempted to halt the migration from rural areas to the towns. Several housing Bills also sought this end by means of improved housing in rural districts. Sir Walter Foster introduced such a Bill in 1905 but it was dropped after the first reading. The following year Frederick Mackarness introduced a similar measure. The Bill sought to amend Part III of the Housing Act of 1890 to permit rural district councils to hire land compulsorily for building purposes and to provide cottages with three acres of land instead of the half acre permitted by the Act of 1890. Mackarness believed that the opportunity of small holding would "encourage domestic family life by keeping the sons at home to assist their parents instead of going to the towns, and to that extent it would revive rural life".[113] The aim of diminishing rural migration was unanimously supported, though John Burns suggested that the Bill be referred to a Select Committee so that it might be used as the basis for an improved Government Bill.

The Select Committee on the Housing of Working Classes Acts Amendment Bill reported eight months later in December 1906. The main conclusion was that the problem of urban overcrowding was largely the result of migration from rural districts:

> The want of proper housing in rural districts finds its counterpart in the congestion of towns; and the evils arising out of overcrowding will never be successfully grappled with until it is fully realised that the root of the problem lies in the diminution or stagnation of population that has for years past characterised rural districts.[114]

The Committee believed that improved housing and opportunities in the rural districts would diminish migration to the towns and ease the urban housing problem. The Government, though, looked mainly to the expansion of low-density suburbs as the solution to the urban housing problem. This was the assumption behind the first Housing and Town Planning Bill of 1908.

THE HOUSING AND TOWN PLANNING ACT, 1909

Modern town planning did not originate with the Housing and Town Planning Act of 1909. The planning idea had been developing since the 1830s and was conceptually mature with the Cross Act of 1875. The unique contribution of the Act of 1909 was to extend planning powers to undeveloped suburban land. This extension of planning's domain marked a considerable increase in the influence of planning, but it signified no conceptual advance, no change of direction, no new value in the idea of town planning. The public welfare continued to be conceived in terms

of a utilitarian ethic characterized by the value of efficiency.

The Bill

In 1906 a delegation from the National Housing Reform Council approached the Prime Minister, Sir Henry Campbell-Bannerman, and John Burns, the President of the Local Government Board, with a programme of housing and town planning legislation. The Prime Minister pledged that legislation would be introduced at the earliest possible date, and the first reading of the Housing and Town Planning Bill occurred on March 28th, 1908.[115]

The first part of the Bill amended the Housing Acts. It proposed to make Part III of the Housing Act of 1890 operative in every local authority (formerly a local authority had to adopt Part III formally) and provided for its compulsory enforcement by the Local Government Board. It also proposed to permit local authorities to purchase land compulsorily for the purposes of Part III without the sanction of Parliament, and sought to give the Local Government Board complete autonomy from Parliament in the matter of improvement schemes. The second part outlined the new technique of the town planning scheme, which local authorities were permitted to prepare with the object of securing orderly and coherent urban development. As with the improvement scheme, the Local Government Board was to be authorized to require a local authority to prepare a town planning scheme if the Board thought it necessary.

The Debate

The Bill was introduced for the second reading by John Burns, who described it in visionary terms:

> The object of the Bill is to provide a domestic condition for the people in which their physical health, their morals, their character, and their whole social condition can be improved by what we hope to secure in this Bill. The Bill aims in broad outlines at, and hopes to secure, the home healthy, the house beautiful, the town pleasant, the city dignified, and the suburb salubrious. It seeks, and hopes to secure, more homes, better houses, prettier streets, so that the character of a great people, in towns and cities and in villages, can be still further improved and strengthened by the conditions under which they live...[116]

These sentiments, though, were not new in the field of housing reform. Since the 1860s similar claims had been made for housing legislation, though they were subordinate to explicit utilitarian reasoning and were expressed more soberly.

Burns emphasised the necessity for central direction by the Local Government Board in housing and town planning matters. Town planning, Burns said, was necessitated by the enormous expansion of the suburbs:

> Take London for instance. We find...that 13,000 families are so to speak, exported from the centre to the outer ring, and except for the London Building Act and the increasing public interest in the subject, you cannot have 13,000 families taken from the centre to the outside in a big city like this without disastrous consequences in the future, unless there is something like presience and planning in the method of their distribution.... In fifteen years 500,000 acres of land have been abstracted from the agricultural domain for houses, buildings, factories, workshops, and

> railways.... It represents an enormous amount of building land which we have no right to allow to go unregulated.[117]

The main object of the town planning part of the Bill, Burns said, was "secure agreement, by conference, by coordinating the varying and conflicting interests, and, in the case of an objectionable owner, to buy him out or exchange his land for some other piece or to make arrangements which will be suitable to everybody".[118] Burns believed the public interest would clearly guide town planning schemes and encourage agreement among the interested parties.

There was general agreement on the need for improved housing and for a system of town planning. The efficiency rationale was advanced but it was not as prominent as in the housing debates of the early 1900s. Henry Vivian, for example, remarked that there was a "very close connection between housing reform and such matters as the health of the people and their industrial efficiency - their efficiency in every sense of the word".[119] The main criticism was that the Bill gave too much power to the Local Government Board and much of the debate was concerned with the proper relationship of the district councils, the county councils and the Local Government Board. Two speakers criticized Burn's visionary description of the Bill. Walter Long, who had been President of the Local Government Board from 1900 to 1904, complained that Burns "spent much more time in telling us what are their [the Government's] aspirations than in telling us how those aspirations are to be realised, and I would remind him that this House has often been witness to the old tag that a certain place is paved with good inten-

tions."[120] Earl Winterton remarked that "a large portion of the speech was rather visionary. Everybody was anxious to see the salubrious suburbs of which the right hon. Gentleman spoke, but...the question would not be solved by the use of eloquent language in this House".[121] Sir Walter Foster condemned the Bill because it was "built upon the assumption, the unfounded assumption in his opinion, that the Local Government Board was a great reforming agency in the State. It was not."[122] This was an important criticism for the Bill gave much of the responsibility for municipal housing, urban redevelopment and town planning to the Local Government Board.

The Bill went to Committee early in November where it underwent, in the words of Charles Masterman, the Parliamentary Secretary to the Local Government Board, "twenty-two days of exhaustive criticism". According to Masterman, forty of the sixty-one clauses passed without amendment and most of the debate concerned the town planning part of the Bill, particularly the compensation clauses.[123] The Bill did not reach the Lords before the end of the session and it was withdrawn.

A Bill identical to the one which emerged from the Committee Stage was introduced in April 1909, and was again criticized for giving too much power to the Local Government Board. The amendments introduced in the Committee Stage gave the county councils power to act in default if the local district councils failed to carry out Part III of the Act of 1890 but the Local Government Board was still authorized to enforce the Act if the county councils neglected their duty. The powers of the Board to determine the regulations governing town planning schemes and to judge whether planning schemes were suitable or not, were

suitable or not, were criticized. George Cave criticised the power to determine planning shcemes with the object of securing amenity; "it may often be a mere question of taste - a question between the judgment and taste of the private owner to lay out the land in one way and the taste of the local authority, who might think the land ought to be laid out in a different way".[124]

With the huge Government majority, the Bill passed through the Commons Committee Stage with only one minor amendment. In the Lords, however, the Government was in a minority and the Lords criticized the centralizing and burueaucractic powers of the Local Government Board. The Government, though, was committed to the supervisory role of the Board, so, to gain the support of the Lords, the betterment levy was reduced from 100% to 50% and it was agreed that town planning schemes would have to be laid on the Tables of both Houses of Parliament, to be withdrawn upon the objections of either House.[128] The Lords accepted the amendments and the Bill became law on November 19th, 1909.

The Provisions of the Act

The Housing Provisions. The housing provisions dealt mainly with Part III of the Act of 1890 and the powers of the Local Government Board over the local authorities. Part III no longer had to be formally adopted and rural district councils no longer required the consent of the county councils to adopt the Act. Local authorities, by means of an order submitted to the Local Government Board, could now

purchase land compulsorily for Part III without obtaining the sanction of Parliament. If the order concerned land in an urban area, the Board was to appoint an impartial person to hold a local inquiry and determine the conditions under which the land was to be purchased. In the case of rural areas, the Board was the final authority. The Board could now authorize schemes under Parts I and II of the Act of 1890 (which dealt with the Cross and Torrens Acts) without any reference to Parliament. Parts II and III of the Act could be put into motion on the petition of four resident householders to the Local Government Board, which, after a local inquiry, could rule that the local authority had neglected its duty and direct it to carry out work under the Act. The debate, however, indicated that this power was to be used only if urgently required. A similar power permitted county councils to act in default of rural district councils. Furthermore, if, by means of a local inquiry or otherwise, the Local Government Board was satisfied that the construction of working-class housing was being 'unreasonably impeded' by a local authority's by-laws, the Board could require the authority to revoke or amend them. Local authorities, with the consent of the Local Government Board, were permitted to purchase land by agreement for Part III of the Act of 1890 even though the land was not immediately required. This gave local authorities the opportunity to buy and hold land for future use and benefit from any increase in the value of the land. This was an early provision for municipal land-banking. In addition, local authorities were now permitted to keep buildings erected under Part I of the Act of 1890

(previously, buildings erected by local authorities in the course of urban redevelopment had to be sold within ten years) but no such condition applied to Part III of the Act). The Act significantly increased the powers of the Local Government Board over local authorities, and the autonomy of the Board from Parliament. It, therefore, marked a new degree of centralization and bureaucratization.

The Town Planning Provisions. The town planning part of the Act permitted local authorities or landowners to prepare a 'town planning scheme' for any land in the course of development or likely to be developed, with the general object of "securing proper sanitary conditions, amenity, and convenience in connexion with the laying out and use of the land, and of any neighbouring lands". A planning scheme could regulate any development within the designated area, including, streets, buildings, open spaces, the preservation of objects of historical interest or areas of natural beauty, sewerage and water supply, and rights-of-way. The scheme could also determine the positioning of these developments, the density of development, and the height and character of the buildings. In effect, a town planning scheme could regulate the design of a subdivision as well as the zoning within it. Provision was made for compulsory purchase of land, but this was regarded as a means of facilitating the implementation of a town planning scheme only after it had gone through the full planning process and secured the approval of all the interested parties.

The Planning Procedure

The planning procedure was a lengthy and complicated process involving the landowners and other people interested in the land, the local authority, the Local Government Board, and Parliament. This procedure was designed to protect private property interests from undue interference by local authorities.

To secure authorization to draw up a planning scheme, the local authority first had to satisfy the Local Government Board that there was a _primâ facie_ case for making such a plan. The Board prescribed the regulations governing the scope and content of the application. The second stage of the procedure began once the local authority received authorization to prepare a plan. The Board could make regulations governing the preparation of the scheme and the manner of securing the Board's approval of the plan. These regulations had to include provisions "for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings, by means of conferences, and such other means as may be provided by the regulations". 'Persons interested in the land' included representatives of architectural or archaeological societies or anyone "interested in the amenity of the proposed scheme". Notice of the Board's intention to adopt a plan had to be published in the _London Gazette_. If, within twenty-one days any person or authority objected to the proposed scheme, it had to be laid before each House of Parliament and if either House presented a petition against the plan

within thirty days the plan would be dropped. If no one objected to the scheme approved by the Board, it became law.

The actual regulations drawn up by the Board, however, permitted plans to be drawn up by a local authority without reference to 'public input'. Professor S.R. Adshead, a contemporary authority on town planning commented on the Board's regulations:

> It is of interest to note that the first time that it is necessary for the Local Authority to disclose their scheme is one month before sending it in to the Local Government Board for their final sanction, and this considered in connection with the regulation whereby all outstanding objections are finally referred to the Local Government Board for their settlement means, that in effect the scheme may if thought desirable be prepared by a Local Authority without reference to any party or personal considerations raised in the form of objections or offered as suggestions by owners or others interested, and that finally the Local Government Board are the sole arbiters both as regards the scheme submitted and also as regards any objections that have not been met.

The Board, in effect, ignored the spirit of Parliament's intentions. This state of affairs, however, did not trouble Adshead for he concluded: "In view of the inexperience and incapacity of most of our Local Councils to deal with this difficult problem of town planning, no doubt this is an excellent thing."[126] Adshead, like the majority of people interested in planning, conceived of it as primarily a technical activity (he thought that the municipal engineer should be the chief planner), and thus was not concerned at the considerable autonomy of the technicians.

Owners of property 'injuriously affected' by a planning scheme could apply for compensation. No compensation could be made for the limitations imposed by a plan as to the number, height and character of buildings or any provisions which the Local Government Board considered 'reasonable for the purpose', or any work done after application for leave to prepare a plan. The amount of compensation was determined by the Board's arbitrator. The principle of betterment was also retained, in that the local authority could claim one-half of the increase in property value attributed to a planning scheme.

Evaluating the Act

The Housing and Town Planning Act of 1909 permitted the values of rationality and efficiency to be applied to urban development. The Act signified no departure from the utilitarian conception of the city and the public welfare so clearly exemplified by the sanitary reform movement. Indeed, the planning literature of the time is full of enthusiastic references to the benefits of orderly, efficient development conceived within a utilitarian framework. Raymond Unwin, the co-designer of Hampstead Garden Suburb and one of the most influential planners of the first half of the twentieth century, wrote in his Town Planning in Practice (1911):

> For the first time our urban communities are able to apply to the development of their towns and to the economic use of the opportunities afforded by their sites and the resources which have developed upon them, those principles of organisation the application of which to our great industries during the past century has led to such increased efficiency. The community can now exercise over what is virtually its estate

> the same oversight, the same regard for economic and efficient development that the owners of great industrial concerns have found so necessary.[127]

T.C. Horsfall, another influential figure in the town planning movement, stressed the health advantages of good housing and town planning in starkly utilitarian terms. He was deeply impressed with the orderly development of towns in Germany and that State's emphasis on physical training and health. Horsfall wanted a similar system of town planning and physical training established in Britain.[128] Henry Aldridge, the founder and secretary of the National Housing and Town Planning Council, wrote in The Case for Town Planning (1915):

> There is no reason why the results of town planning schemes should not be beautiful - and indeed every reason why they should be beautiful - but at the same time it must be recognised that town planning is primarily needed to increase the health and general well-being of the citizens.... It will be wise to state as the first fundamental principle of town planning the provision of healthy sites for homes.[129]

Alongside this utilitarian conception was propounded a social vision that conceived of planning as promoting such values as community and citizenship through the appropriate arrangement of houses and streets and the provision of communal parks and recreational and cultural facilities.[130] However, this vision was conceived strictly in terms of the prevailing social structure. Suburban design conformed to the class structure, as Adshead explained:

> The problem of arranging for the juxtaposition of the classes or for their separation will constantly present itself, and whilst absolute separation is a policy to be avoided, as being contrary to the natural dependence of the classes upon each other, at the same time to throw them indiscriminately together would be too radical a policy, and would most certainly fail. Great skill will need to be displayed in so arranging the residential thoroughfares and non-traffic roads, that the different classes in their daily avocations and regular walks do not trespass on one another's preserves.... Public buildings should be placed on half-way sites, and whilst in their regular work and play the natural separation of the classes must be provided for, at the same time byeways for immediate access to one another must be arranged, and a natural spirit of dependence encouraged.[131]

In both its housing and town planning provisions, the Act increased the power of the State over the individual's use of the environment, the power of the central authority over local authorities, and the autonomy of the planning bureaucracy. The powers over private property rights contained in the town planning provisions were not as absolute as those of the improvement schemes and reflect a weaker rationale for planning from the improvement schemes. The redevelopment of unhealthy slum areas was clearly in the public interest and the abolition, without recourse, of the slum landlords' property rights was easily justified. But regulation of land on the outskirts of urban areas was not so clearly in the public interest, hence the emphasis on cooperation with the landowners and the provision for recourse to Parliament. Nevertheless, by permitting town planning schemes to be prepared and implemented, the Act signified an important extension of the planning method.

Central direction of the Housing Acts was initiated by the Housing Act of 1903 which empowered the Local Government Board to enforce Parts I and II of the Act of 1890. The Act of 1909 increased considerable centralization through the Board's power to force local authorities to adopt housing and town planning schemes. Furthermore, these housing and town planning schemes had to be drawn up according to the Board's regulations and required the Board's approval before they could be adopted. In the administration of the housing and town planning legislation, the Board was subject to very little outside interference. The Board no longer needed Parliament's approval for urban redevelopment schemes even when persons objected to having their property compulsorily purchased. Individuals affected by redevelopment schemes no longer had any means to appeal the Board's plan through their elected Members of Parliament. The local elected representatives had no authority independent from the Board in matters of housing and town planning.

This very real increase in the powers of the State and of the central bureaucracy was viewed with alarm by some contemporaries. The Times condemned:

> The passion of the government for compulsion, for the suppression of freedom, and for irresponsible bureaucratic control, for everything opposed to true Liberalism.... The ideal of collective socialism is an all-embracing bureaucracy which shall wrap its tentacles around everything and everybody, and squeeze all the individual life out of them. The Town Planning Bill in an innocent guise was a step, and no inconsiderable one, in that direction.[132]

CONCLUSION

The theme of the housing legislation that is of central significance for the development of town planning is the utilitarian conception of efficiency in the city and the public welfare. This formed the framework within which planned intervention in the urban environment was to take place. Its implications are of crucial importance for the role of planning in society, for in the pursuit of efficiency, values such as freedom and equity are overlooked. Thus, the improvement schemes of the late nineteenth century wrought havoc in the lives of the people living in an area scheduled to be redeveloped, but the sanitary goal was paramount. In the context of Edinburgh's improvement schemes, Smith writes: "In practice, attention was focussed on insanitary areas rather than their inhabitants".[133]

The increasing power of the State over the individual's use of the environment is conspicuous. In the case of sanitary reform legislation enacted in the public health Acts, individual rights were subordinated for a collective purpose - the public health - that was clearly of benefit to everyone. However, increasing power over private property rights, such as contained in the Housing and Town Planning Act of 1909, was obtained for collective purposes that were not clearly apparent. The Act of 1909, for example, directed that town planning schemes could be made for securing "amenity and convenience". The restriction of private rights by means of delegated authority (such as that given to planning bodies) in the name of collective interests

that are incapable of being clearly elaborated, is, in the eyes of some, a dangerous infringement of freedom.[134]

Concomitant with the increased power of the State, is an increase in both centralization and the autonomy of technical experts, centrally and locally. This development also takes place at the expense of democracy and freedom.

NOTES AND REFERENCES TO CHAPTER IV

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2 Hansard, third series, (1875) CCXXII, 98.

3 ibid., 99.

4 ibid.,

5 ibid.,100.

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8 ibid.,107.

9 A.S. Wohl, The Eternal Slum: Housing and Social Policy in Victorian London. Montreal: McGill-Queen's University Press, 1977, p. 99.

10 Hansard, third series, (1875) CCXXII, 383 - 384.

11 ibid.,100.

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13 ibid.,102 -103.

14 ibid.,334.

15 ibid.,382.

16 ibid.,104.

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18 ibid.,371.

19 ibid.,381.

20 ibid.,CCXIV, 459.

21 ibid.,460.

22 ibid.,CCXXII, 755.

23 ibid.,CCXIV, 451.

24 ibid.,CCXXII, 381.

25 ibid.,741 -742.

26 ibid.,107.

27 ibid.,374, 380 and 381.

28 ibid.,344.

29 ibid.,360.

30 Wohl, The Eternal Slum, p. 101.

31 Hansard, third series, (1875) CCXXII, 736.

32 ibid.,738.

33 ibid.,349.

34 ibid.,362.

35 ibid.,CCXIV, 455.

36 ibid.,CCXXII, 365 -366.

37 J.N. Tarn presents a comprehensive account of the role of the model dwellings companies in Five Per Cent Philanthropy: An Account of Housing in Urban Areas between 1840 and 1914. Cambridge: Cambridge University Press, 1973.

38 The Local Government Board was established by the Local Government Board Act of 1871 introduced by James Stansfield. This new department held the officials of the Poor Law Board, the General Register Office, the Local Government Board of the Home Office, and of the Medical Department of the Privy Council.

39 Fifth Annual Report of the Local Government Board, Parliamentary Papers, 1876, Vol. XXXI, p. 62. Ninth Annual Report of the Local Government Board, Parliamentary Papers, 1880, Vol. XXVI, p. 344. Twelfth Annual Report of the Local Government Board, Parliamentary Papers, 1883, Vol. XXVIII, pp. 213, 214.

40 Smith,'Planning as Environmental Improvement: Slum Clearance in Victorian Edinburgh', p. 101.

41 Gareth Stedman Jones, Outcast London: A Study in the Relation-Ship between Classes in Victorian Society. Oxford: Clarendon Press, 1971, p. 205.

42 In London in 1875, there were twelve representations made to the Metropolitan Board of Works by the local authorities. The following year there were ten, in 1877 there were five, in 1878 four, and in 1879 only one. In the first two years of the Cross Act, the Board had begun improvement schemes affecting twenty-nine acres and some 17,500 people. In the following eleven years, the Board had finished schemes affecting only thirteen acres and had begun work on schemes affecting nine acres when the London County Council took over. Wohl, The Eternal Slum, pp. 130, 135 and 135.

43 Report of the Select Committee on Artizans' and Labourers' Dwellings 1882, Parliamentary Papers, 1882, Vol. VII, p. 9.

44 Hansard, third series, (1879) CCXLIX, 647.

45 ibid., CCXLVIII, 1159.

46 ibid.,1162, 1164.

47 ibid.,1166.

48 Wohl, The Eternal Slum, p. 138.

49 Report of the Select Committee on Artizans' and Labourers' Dwellings 1882, p. 3.

50 ibid.,

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52 Richard Cross, Hansard, third series, (1875) CCXXII, 384.

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56 ibid.,p. 8.

57 ibid.,

58 Shaw Lefevre wanted the principle of betterment applied in the Cross Act, Hansard, third series, (1875) CCXXII, 357.

59 Hansard, third series, (1882) CCLXXIII, 718.

60 ibid., 1102-1103.

61 This realization which occurred in the 1880s, is discussed in Wohl, The Eternal Slum, Stedman Jones, Outcast London, and Helen Lynd, England in the Eighteen-Eighties: Toward a Social Basis for Freedom. New York: Oxford University Press, 1945.

62 Hansard, third series, (1884) CCLXXXIV, 1704.

63 This movement is discussed in G.R. Searle, The Quest for National Efficiency. Oxford, Basil Blackwell, 1971.

64 A.S. Wohl gives a comprehensive account of the influence of The Bitter Cry of Outcast London, in A.S. Wohl, (ed.), The Bitter Cry of Outcast London. New York: Leicester University Press, 1970.

65 Wohl, The Eternal Slum p. 206.

66 ibid.,p. 201.

67 Wohl calls it "one of the most important in the history of nineteenth century housing reform". ibid. p. 237.

68 Hansard, third series, (1884) CCLXXXIV, 1685, 1686.

69 ibid.,1689 -1690.

70 ibid.,1686.

71 Cited on p. 49.

72 Hansard, third series, (1884) CCLXXIV, 1690.

73 ibid.,1699.

74 ibid., CCLXXXV, 512.

75 Hansard, third series, (1884) CCLXXIV, 1700, 1702.

76 Wohl, The Eternal Slum, p. 239.

77 Report on the Royal Commission on the Housing of the Working Classes 1884-85. Parliamentary Papers 1885. Vol. XXX, p. 14.

78 ibid.,

79 Lynd, England in the Eighteen-Eighties, p. 150.

80 Report of the Royal Commission on the Housing of the Working Classes 1884-85. p. 35.

81 Hansard, third series, (1885) CCXCIX, 897.

82 ibid.,1171.

83 ibid.,CCC, 1589.

84 ibid.,1610.

85 ibid.,CCXCIX, 1174 - 1175.

86 ibid.,CCC, 652 - 653.

87 ibid.,1612.

88 ibid.,1589.

89 ibid.,1170 - 1171.

90 ibid.,1592, 1594 and 1596.

91 ibid.,1754

92 ibid.,1760.

93 Salisbury's view of the form of municipal housing was that "it should not take the form of long rows of buildings; but, as far as possible, they should erect cottages separated by gardens. ibid. CCXCIX, 896.

94 Wohl, The Eternal Slum, pp. 251, 252.

95 Tarn, Five Per Cent Philanthropy, p. 123.

96 Hansard, fourth series, (1900) LXXXI, 1272 - 1273.

97 ibid.,1278, 1279 and 1283.

98 ibid.,LXXXV, 483 -484.

99 Hansard, fourth series (1903) CXVIII, 170.

100 Hansard, fourth series, (1900) LXXXII, 1315 - 1316.

101 ibid.,1346 - 1347.

102 Balfour said in the debate: "If every slum owner was hanged at the door of his slum, I might think it a very harsh exercise of the criminal law, but I should not weep my eyes out over his destiny". ibid., LXXXV, 514.

103 ibid.,LXXII, 1334 - 1335.

104 ibid.,1335.

105 Balfour also anticipated the large-scale use of the motor car: "I sometimes dream - perhaps it is only a dream - that in addition to railways and tramways we may see great highways constructed for rapid motor traffic, and confined to motor traffic, which would have the immense advantage, if it could be practicable, of taking the workman from door to door, which no tramway and no railway could do....and the vehicles, belonging to private individuals, requiring no permanent charges and no staff, would, I believe, at a very cheap rate and with great rapidity actually convey from the door of the dwelling to the door of the workshop the workmen who had the good fortune to have their dwellings in the country". ibid., LXXXV, 519.

106 The fear that Britain was falling behing Germany and the U.S.A., was expressed in a number of books and articles including E.E. Williams's Made in Germany (1896), and Arnold White's Efficiency and Empire (1901).

107 Bentley Gilbert discusses the background and the influence of the Inter-Departmental Committee on Physical Deterioration in The Evolution of National Insurance in Great Britain: The Origins of the Welfare State. London: Michael Joseph, 1966.

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118 ibid.,965.

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127 Raymond Unwin, Town Planning in Practice: The Art of Designing Cities and Suburbs. London, T. Fisher Unwin, Second Edition, 1911, p. 14.

128 Horsfall outlined the case for Town Planning in The Improvement of the Dwellings and Surroundings of the People: The Example of Germany. (1904), and 'On the Interaction Between Dwellings and their Occupants in Germany and in England', The Town Planning Reivew, Vol. 2, No. 4, 1912, pp. 281-302.

129 Henry Aldridge, The Case for Town Planning. London: National Housing and Town Planning Council, 1915, p. 331.

130 The ideal of a society based on values of cooperation instead of competition was a major theme of Ebenezer Howard's Garden Cities of Tomorrow. 1902.

131 Adshead, 'The Town Planning Act', The Town Planning Review, Vol. 1, 1910, p. 50.

132 Cited in Wohl, The Eternal Slum, p. 335.

133 Smith, 'Planning as Environmental Improvement: Slum Clearance in Victorian Edinburgh', p. 112.

134 Friedrich Hayek, The Road to Serfdom. Chicago: The University of Chicago Press, 1944. and

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CHAPTER V

THE CONTRIBUTION OF RELATED AREAS OF PLANNING

In this chapter, four topics of legislation will be evaluated: public health, pollution control, commons and outdoor recreation, and small holdings. This legislation extended the concern of the State for physical and social efficiency, as expressed in the housing and town planning legislation, to other areas. Concern for physical health prompted efforts to improve environmental health conditions. This was the concern of public health and pollution control legislation. Physical health was also the concern of commons and small holdings legislation, but a utilitarian concern for the moral welfare of the people was also expressed. To achieve this public end, restriction of private property rights was an inescapable necessity. Further developments conspicuous in the housing and town planning legislation - centralization and the autonomy of the apointed experts - were also found to be a necessary means to the realization of the public welfare.

PUBLIC HEALTH: THE CONSOLIDATION OF REGULATION

Since the Public Health Act of 1848, public health legislation had sought to promote the physical welfare of the people through sanitary regulation of the urban environment. This principle of State intervention was vigorously justified by Chadwick in Utilitarian terms that made an irresistible appeal to rationality. From the beginning,

public health legislation professed no other end than efficiency. It was also the least controversial of all the forms of State intervention with the environment, though its powers to regulate private property and modify the urban environment were second only to the powers contained in housing legislation. Public health legislation was accepted because no other form of State intervention could result in such great dividends (a stronger, more productive nation because of lower mortality and morbidity rates) at so little cost to the reigning principles of the time such as laissez - faire and the sanctity of private property (public health legislation regulated use of private property but it did not have powers to take private property as housing legislation did from 1868). By 1875 public health legislation was a form of State intervention that was beyond question.

The Public Health Act of 1875

The Bill for consolidating and amending the Acts relating to Public Health in England and Wales was formulated in response to the Royal Sanitary Commission Report of 1871. George Sclater-Booth, the President of the Local Government Board introduced the Bill in the Commons, stressing the pressing need for the law to be consolidated:

> From 1848 down to the present day, public attention had been continually more and more directed to the question, of public health and efforts had been made from year to year to improve and facilitate the local administration of the country. Many of the Bills which had been passed had been permissive, and others had been partly permissive and partly compulsory. They had been drawn upon different models, and had approached the same subject-matter from different points of view. Some had for their object the removal

> of nuisances, others the establishment of local authorities, the construction of works, the borrowing of money and the improvement of towns, while in all there had been frequently contained provisions which touched or conflicted with the provisions of other Bills.[1]

The result was that the law on this subject had become very complex and the local authorities found it increasingly difficult to apply. The Bill therefore proposed to consolidate a huge amount of legislation and Sclater-Booth asked the Commons "to allow the consolidated clauses to pass without much discussion and without opposition and take them on the responsibility of his Department". He also proposed to introduce "a few amendments of a technical character, with which he need not now trouble the House".[2]

Sclater-Booth's request was heeded by both Houses of Parliament, for there was remarkably little debate for such a lengthy and important Bill (it contained 333 clauses and 28 pages of Schedules). The debate proceeded from an acceptance of the necessity for effective public health legislation. There is very little of the explicit reference to the rationale for such legislation that had typified the debates of the 1840s, though Playfair presented a rare example of the efficiency argument to support his plea for stricter and more encompassing legislation:

> Our public health in England is so low that we suffer annually 125,000 preventible deaths, and have 3,000,000 or 4,000,000 of serious cases of preventible sickness, weakening the industrial powers of the survivors.[3]

Playfair wanted the Local Government Board to pursue public health in

a more logical and efficient manner:

> The Local Government Board acts well as central audit for the accounts of the Boards of Guardians in the relief of the poor, but it neglects its duties as a central audit of death accounts throughout the country. It does not dream of inquiring why one population has double the mortality of another, and does not draw the attention of local authorities to their reckless extravagence in permitting their death accounts to rise so fearfully. That would be a central audit well worth having.[4]

Playfair expressed a rare and clear conception of the direction in which public health administration would have to move.

Most of the other Members, however, were more complacent. Sclater-Booth replied to Playfair that: "Instead of the general apathy which formerly prevailed with regard to sanitary measures, they found local authorities everywhere bestirring themselves for the public good.... and there was great reason to be satisfied with the progress that had been made."[5] The Duke of Richmond expressed comparable satisfaction when introducing the Bill in the House of Lords:

> He did not bring it forward as a great measure of sanitary reform, but as a measure, which, by consolidating, with some not unimportant amendments, the sanitary Acts of the last thirty years, laid a good foundation for such enactments as might in future be deemed necessary for the promotion and maintenance of public health.[6]

There was very little opposition to the Bill. The Duke of Somerset complained that it would "increase the rates and lessen the ratepayers control over the local expenditure of the country", and that important powers were given to inspectors and surveyors, "who would in all probability be frequently very ignorant people".[7] He did not, however,

denounce the principle of inspection, while Salisbury made the remarkable reply that "it should be borne in mind that inspectors were the genuine outcome of our democratic form of government".[8]

Evaluating the Act. The Public Health Act of 1875 is a landmark in public health legislation. Its codification of nearly three decades of legislation into one coherent Act formed the essential structure of public health legislation throughout the rest of the nineteenth century and into the twentieth century. The Act, which was applicable to all local authorities except those in London, was in twelve parts and included provisions regulating sanitation, local government, rating and borrowing, and the Local Government Board. The Act was mainly permissive but some of the provisions, primarily the sanitary ones, were compulsory. The most important new power for regulating the urban environment was the power to set standards for housing development. Section 157 of the Act permitted local authorities to make bye-laws:

1 With respect to the level, width, and construction of new streets and the provision for the sewerage thereof;
2 With respect to the structure of walls, foundations, roofs and chimneys of new buildings for securing the stability and the prevention of fires, and for the purposes of health;
3 With respect to the sufficiency of space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings;
4 With respect to drainage of buildings to water-closets, earthclosets, privies, ashpits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation and to prohibition of their use for such habitation;

5 With respect to the giving of notices, the deposit of plans and sections by persons intending to lay out streets or to construct buildings; inspection by the Sanitary Authority; and the power of the Sanitary Authority to remove, alter, or pull down any works begun or done in contravention of the bye-laws.

The Local Government Board prepared a set of model bye-laws in accordance with this section and these became the standard regulatory device for housing development. The Act also contained provisions which gave a greater independence to the officers of local authorities. Section 309 provided that in the case of an officer of a local authority who was removed from his office or suffered any loss of pay while carrying out any provisions of the Act, "the Local Government Board may by order award to such officer such compensation as the said Board may think just". This was the earliest provision in national legislation for the compensation of local government officers.[9] The powers of the Local Government Board over the local authorities were also increased, as in Section 303, which authorized the Board to repeal or alter local Acts by provisional order.

Efficiency was the sole aim of the Act, the success of which could be quantitatively determined through medical health statistics, particularly the mortality rate.[10] The Act increased the power of the State to regulate the use of the environment, and represented some increase of centralization through the greater powers of the Local Government Board but the local authorities retained much independence as most of the Act was permissive.

Further Statutory Regulation

Despite the comprehensive nature of the Public Health Act of 1875 further statutory regulation was enacted. First came the Public Health (Buildings in Streets) Act of 1888 which regulated the position of a building on a lot:

> It shall not be lawful in any urban district, without the written consent of the urban authority, to erect or bring forward any house or building, beyond the front main wall of the house or building on either side thereof, nor to build any addition to any house or building beyond the front main wall of the house or building on either side of the same.

The only opposition was voiced by Wemyss who wanted the Bill postponed for a week for "the further consideration of what was understood to be an interference with the rights of owners to claim compensation from the Local Authority if they were restricted from advancing buildings to what was considered their frontage line".[11]

The Public Health Acts Amendment Act of 1890 consolidated, as a national statute, various clauses which the Sanitary and Police Regulations Committee usually sanctioned in local Bills. This was done to achieve greater uniformity in local legislation and to reduce the expense of obtaining local Bills. The Act, which was permissive, contained many sanitary and related regulations. It extended Section 157 of the 1875 Act to cover:

The keeping of waterclosets supplied with sufficient water for flushing;
The structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation;
The paving of yards and open spaces in connexion with dwelling-houses;
The provisions in connexion with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters.

Although the Bill was examined by a Select Committee, it generated little debate, and most of that was concerned with the principle of permissive legislation. H.H. Fowler reported that "the committee came to the unanimous conclusion that it is desirable to leave the Bill permissive... I have little doubt that we shall find it in universal application."[12] As explained by Ritchie: "There is the advantage that we enlist the local sympathy and co-operation of Local Authorities, when by more drastic regulation we might excite opposition."[13]

Along with the Act of 1875, the Public Health Act of 1890 formed the basis of public health legislation until well into the twentieth century.

POLLUTION CONTROL

For the purposes of this thesis the term 'pollution' will be used in the context of the natural environment, specifically the pollution of rivers. Some attempt had been made to abate smoke pollution. The Alkali Acts from 1863 sought to regulate the emmissions from that branch of the chemical industry and the nuisance clauses of the Public Health Act of 1875 termed smoke pollution as a nuisance.

The Unregulated Period Before 1876

The Public Health Act of 1848 and the Nuisances Removal Act of 1855 were the first national statutes to make provisions to regulate the disposal of wastes (primarily sewage) in the urban environment. But this early legislation made no provision for preventing pollution. The Nuisances Removal Act operated only when pollution had become a nuisance as defined by the Act. Before the 1870s, no national statute embodied provisions for preventing the pollution of rivers, though at least one local authority obtained a local Act to control the pollution of a river within its jurisdiction.[15]

The expansion of industry and the development of water-borne sewage systems in urban areas (a method of sewage disposal which was developed to protect the public health) resulted in severely polluted rivers. However, it was not until 1868 that Parliament attempted to determine the scope of the problem by establishing a Rivers Pollution Commission. The Reports of the Commission, published from 1870-1874, included studies of the Mersey and Kibble Basins, rivers polluted by woolen manufacture, Scotland's rivers and domestic water supply.

In 1875 Salisbury introduced a Bill in the Lords to control the pollution of rivers on a national scale. The Bill made it illegal to convey any solid and liquid waste into a river or stream, though it was permissible to convey sewage into a river via a sewer, "so long as ...the best practicable and available means [were used] to purify such matter before it is conveyed into the stream". Furthermore, Parlia-

mentary approval was needed to take action against offences committed by factories or mines if they continued disposing of waste through the same sewer. The Bill also upheld all existing rights and powers with respect to rivers. This was of vital importance because existing claims severely constrained attempts to abate pollution. These provisions had little effect on existing sources of pollution though they made it more difficult to increase the amount of effluent poured into a river. It was to be the duty of every urban and rural sanitary authority to enforce the Act. Provision was also made for individuals to undertake proceedings and the Local Government Board was to be given the power to force local authorities to enforce the Act.

The Bill, guided by Salisbury, passed through the Lords, but it was withdrawn without debate after the first reading in the Commons. Salisbury stressed that the continued pollution of the rivers was a threat to the public health, and that provision had to be made for central control:

> The drainage of a district was not a matter which could be entrusted to local authorities; in many cases their decision could not be relied on.... It was therefore essential that in any legislation Parliament might undertake on the subject there should be some other machinery provided for carrying out its provisions than that of the local authorities. At the same time the Act would be administered by authorities not liable to be swayed by the passions or interests of their constituents, but anxious only to carry out the law, and to preserve to all persons the right - which was as sacred as usage and habit could make any right - of using the waters of our rivers for all ordinary purposes, domestic and otherwise, to which they could be legitimately be applied.[16]

There was little concerted opposition to the Bill. The Earl of Morely warned that "this Bill would give the County Court Judges control over manufacturing interests of the greatest importance,"[17] while the Duke of Somerset thought that "the foul matters encumbering streams might be got rid of, but the notion of their supplying water fit to drink must altogether be put aside."[18]

The Bill and the debate reveal a complete ignorance of the technical nature of pollution control. The Bill contained no quantitative standards; it simply uses words such as "solid refuse", "rubbish", and "filthy", and Salisbury clearly indicated his mistrust of the technical expert:

> His view was that in dealing with nuisances it was better to trust to the common sense of the tribunal to which the cases were referred rather than to lay down a number of unwieldy chemical tests. The Bill, therefore, proposed ...to leave it to the County Court Judges to decide upon evidence what liquids possessed the forbidden qualities[19] .... We should not be able to do altogether without experts, but he hoped we should have as little as possible to do with them. Their opinions were weakened by the very accuracy and minuteness of their scientific findings.[20]

Nevertheless, the Bill attempted to promote the public welfare by restricting the accepted freedom of individuals to pollute the rivers.

The Rivers Pollution Prevention Act of 1876

In June 1876 Sclater-Booth introduced a Bill similar to the one promoted by Salisbury in 1875. He reminded the House that "the subject was entirely removed from anything like a Party character",[21] but the

Bill underwent amendment in a Committee of the Commons and emerged as a very weak Act. Said Playfair:

> But now the Bill is so altered that public interests seemed to have vanished altogether in the background, and the interests of manufacturers are pushed into prominence in every clause of the Bill. Manufacturers are now ardent supporters of the Bill, and well they may be. In Scotland, at least, it interprets the law entirely in their favour.... Every operative clause in the Bill has had its force taken out of it as a means of protecting manufacturing interests against the assaults of public prosecution.[22]

Playfair also denounced the Bill "because it immensely increases central as against local authority.... It is a dangerous encroachment on the principles of local government."[23]

The Act defined three categories of pollution: solid matter, sewage and manufacturing and mining wastes. For each of the categories it was made illegal to pollute rivers but in each case a proviso severely limited the effectiveness of the main clause. Under the category of sewage pollution, exceptions were made if the "best practicable and available means were used to render harmless the sewage". Similarly, under the manufacturing and mining category, exceptions were made if the owner used, "the best practicable and available means, <u>at a reasonable cost</u> (added emphasis), to render harmless the...polluting liquid". Furthermore, it stipulated that the Local Government Board

> shall not give their consent to proceedings by the sanitary authority of any district which is the seat of any manufacturing industry, unless they are satisfied, after due inquiry, that means for rendering harmless the poisonous...liquids proceeding from the processes of such manufactures are reasonably practicable and available under all the circumstances of

> the case, and that no material injury will be inflicted by such proceedings on the interests of such manufacture.

In other respects, too, the Act represented a considerable degree of centralization. A local authority had to obtain the permission of the Local Government Board before undertaking proceedings under the Act. Also, if the local authority refused to act upon a complaint, the complainant could apply to the Board which would then determine whether or not action was required. An inspector of the Local Government Board could issue a certificate to the effect that the best means were being used to render the waste material harmless and this certificate "shall in all courts and proceedings be conclusive evidence of the fact". This provision gave a considerable power to the officials of the Local Government Board, and marks a departure from Salisbury's policy of leaving the determination of pollution entirely to the courts.

Further Proposals

In 1885 two Bills dealing with the pollution or rivers were introduced: the Rivers Pollution Prevention Bill and the Rivers Purification Bill. The first contained provisions enabling a quantitative determination to be made of the quality of the water. The second made no distinction between different categories of pollution as the 1876 Act had done and it proposed stricter provisions. It also provided that if a local authority refused to take proceedings on the complaint of an individual, the individual could himself undertake

proceedings and charge the cost to the local authority. Both Bills were dropped without debate after the first reading.

The Rivers Purification Bill was introduced again the following year and this time it received some debate before it was dropped. Sir Henry Roscoe, who represented Manchester South, referred to the lack of distinction between different categories of pollution and argued that, "in consequence of this, the standards which have been fixed therein are either so stringent that they will act...most prejudicially to the manufacturers in this country, or they are, in some cases, so insufficient that they would be of no avail".[24] Joseph Chamberlain, who was then President of the Local Government Board, objected to the clause which allowed individuals to proceed under the Act at the local authority's expense. He said that reference to this clause alone "is sufficient to show that it is impossible for the House to accept the Bill.[25] Lord Charles Beresford emphasized the conflict of interests over use of the rivers: "There are two great questions which this Bill concerns. One is the manufacturer's interest, and the other is the public health."[26]

The Rivers Pollution Prevention (Border Councils) Act of 1898 permitted English and Scottish County Councils adjacent to the national border to form joint committees to deal with river pollution. Several other Bills dealing with the pollution of rivers were introduced but only one, the Rivers Pollution Prevention Bill of 1899, received a debate. Again, it revealed the conflict of interests between the public and the manufacturers. Sir Francis Powell condemned the Rivers

Pollution Prevention Act of 1876, saying it was so full of technicalities and restrictions that it was, in effect, inoperative. He advocated more effective legislation for the public health: "The Pollution of our rivers is injurious to public health, and it is fatal to the amenity of the surroundings of the houses inhabited by many of the working classes".[27] Sir Walter Foster also argued that stronger legislation was necessary for the public health. James Kenyon argued that the manufacturers were "quite willing to clear their effluent to a certain extent but they did not wish to be put to the enormous expenditure which such [local] Acts as the Mersey and Irwel's imposed".[28] He argued that more stringent pollution standards would put British manufacturers at a disadvantage in competition with foreign countries, especially the United States and Germany, which, he claimed, had less restrictive pollution standards. The Bill received a second reading but was then dropped.

The Significance of the Legislation and Debate

The debate over river pollution in the late nineteenth century has contemporary significance.[29] In the nineteenth century, as today, there were two main competing interests for the use of the rivers - the public, for domestic purposes, and the manufacturing industries. The problem was that there was no clear and unequivocal conception of the public welfare which could guide the decision-makers in Parliament. This was not the case with the housing issue, particularly in its slum clearance aspect. Insanitary slums, which fostered diseases harmful to the whole community, were self-evidently harmful to the public

welfare and had of necessity to be cleared. Generous compensation clauses silenced whatever opposition the slum landlords might have raised. Only principles, namely the inviolability of property rights and laissez-faire, were theoretically in opposition, but these were discarded by the imperatives of efficiency. But in the case of river pollution, both of the prevailing interests could claim to be for the public welfare, the national interest, the general good. Unpolluted rivers were clearly in the interest of the public health, but the manufacturing industries, which polluted the rivers along with domestic sewage, were largely responsible for Britain's unparalleled rise to world supremacy. Stringent pollution standards enforced in the interests of the public health could reduce the cost-efficiency of the industries, thereby putting the nation at a disadvantage in international industrial competition. Clearly, no one interest could be entirely ignored and so a compromise was reached. The weak legislation indicated that the public health was subordinated to the perceived necessity of industrial production and the economic strength of the nation. At the same time, the existence of the legislation indicates a recognition that the health of the people could legitimately challenge manufacturing interests.

COMMONS AND OUTDOOR RECREATION

The term 'commons' refers to arable or waste land, jointly held by certain individuals who had 'right of common' and the lord of the manor, who usually held the largest interest and had special rights in addition. The owners of the largest interest in the commons had

the right (established by the Statute of Merton in 1235) to enclose or convert the commons into individual ownership. During the nineteenth century, this right became increasingly contested in the name of the public welfare.

The long process of the enclosure of the common lands, begun in the Middle Ages, was nearly completed by the mid-nineteenth century.[30] By this time, preservation of the common land on the outskirts of the rapidly growing urban areas was vitally important because very often, little provision was made for parks and open spaces within the urban areas.[31] In the 1830s, Roebuck, as discussed earlier, advanced a utilitarian rationale for preserving the commons and establishing parks. (Commons would provide a physically and morally beneficial recreational alternative to the debilitating influence of the taverns and the confined and unhealthy urban areas). The Enclosure Act of 1836 gave some expression to this conception of the commons as a valuable public resource by restricting enclosure of commons in the vicinity of towns, and it was carried even further in the Enclosure Act of 1845. To administer enclosures, the Act established a State-appointed Enclosure Commission complete with a salaried staff, in place of the former method of privately-administered enclosure. In considering an enclosure application, the Commissioners were directed to also have regard to "the health, comfort, and convenience of the inhabitants of any cities, towns, villages, or populous places" in the vicinity of the common. Although the Act continued to place private interests first, the public welfare was to be considered.

In practice, however, little regard was had for the public welfare, as Henry Fawcett, a prominent Member of Parliament, discovered. Fawcett studied the 1869 annual enclosure Bill and found that of 6,916 acres of land proposed to be enclosed, only nine acres were to be provided for public purposes! Further investigation revealed that, of the 32,000 acres of commons enclosed since 1845, only 2,000 acres were allotted for public purposes. In 1869, as a result of pressure by Fawcett, a Select Committee inquired into the work of the Enclosures Commission. The Committee confirmed Fawcett's findings. To remedy the lack of regard for the public interest, the Committee recommended that no further enclosures be authorized until the terms of the 1845 Act had been considerably amended for the benefit of the public. This recommendation was heeded, for there was no authorization of enclosures by general Act until 1878.[32]

The Commons Act of 1876: The Criterion of the Public Welfare

By 1876 there were thirty-eight enclosure schemes awaiting Parliament's approval. They were opposed by the parliamentary supporters of the Commons Preservation Society on the basis that they offered no benefit to the public.[33] To meet these objections, Cross introduced a "Bill for facilitating the Regulation and Improvement of Commons, and for amending the Acts relating to the Enclosure of Commons'. After a long and sharp debate the Bill became law as the Commons Act of 1876. Like the Cross Act of 1875, this signified an important development in the idea of town planning. The crucial principle is contained in the Preamble, which stated that, enclosure "should not

be herein-after made unless it can be proved to the satisfaction of the said Commissioners and of Parliament that such enclosure will be of benefit to the neighbourhood as well as to private interests". For the first time, enclosure was to be subject to the public interest and with this explicit social directive, the Enclosure Commissioners and their assistants assumed the essential characteristic role of the modern planner, as advocates of the public interest in decisions affecting the environment. The enclosure procedure outlined by the Act also has striking similarities with the modern planning process, particularly in its requirement of public participation.

The Parliamentary Debate. The dominant theme of the debate was that the commons were a valued natural resource of great benefit to the public. Disagreement centred on the means of preserving the commons and the provisions for protecting the public interest in cases of enclosure. The Bill, said Cross, was designed to encourage regulation or management of a common rather than enclosure and to provide the Enclosure Commissioners with the means of acquiring relevant information relating to an enclosure scheme so that they could make a proper decision. He attributed the general acceptance of the importance of the commons to the influence of three factors: the declining importance of British agriculture with the easy availability of vast quantities of cheap food from overseas, the lack of guarantees that the enclosed land would actually be used for agriculture, and the large increase in the population. In connection with this last, Cross said that in considering the expediency of enclosure, they had to consider "what was really

best calculated to promote the health and material prosperity of the people of this country. Whatever could be done in this way without interfering with private rights, it was their duty to do so." But making the public welfare the criterion of enclosure was an infringement on established private rights.

To achieve a better consideration of the public interest, Cross relied on the role of information, stressing that all objections were to be heard and that the consequences of enclosure on the locality were to be carefully considered.[34]

In the Committee stage, however, Cross opposed amendments which would have enhanced the public enjoyment of the commons. Shaw-Lefevre proposed that there be no enclosure of a common without Parliament's sanction, but Cross replied that this "would involve an interference with the undoubted rights of property.[35] He offered a similar rejoinder to Sir Charles Dilke's proposal that "in any application to grant an injunction against the enclosure of land...it shall not be necessary that the applicant should have rights of common in the same".[36] And when William Cowper-Temple argued that "there was no valid public reason for facilitating the conversion into private property of common land that was furnishing health, recreation, and enjoyment to the weary inhabitants of smoky towns", and so proposed an amendment prohibiting the enclosure of suburban commons, Cross replied that "they had very much better leave this matter to the discretion of the local sanitary authorities".[37] Finally, Shaw-Lefevre proposed an amendment "requiring that in all schemes for Enclosure there should be appropriated

for the purposes of recreation or of field gardens, an allotment of not less than one-tenth of the whole common to be enclosed".[38] Cross, though, thought that "each scheme ought to be considered by itself and upon its own merits, and, therefore, that no maximum or minimum should be fixed with respect to the reservation of recreation grounds".[39] On the face of it, this was a reasonable proposition, but when the shameful record of enclosure provisions for such purposes was considered, Cross's proposition was clearly inadequate. Cross's response to these amendments indicates that he held a narrow conception of social reform, which further suggests that his slum clearance and housing legislation was not motivated by some conception of social justice.

Shaw-Lefevre and Fawcett were the most vocal in their criticism of the Bill. Shaw-Lefevre stressed that "the wastes and commons should be looked upon as health reserves for the benefit of the community". But, he argued, the Bill offered inadequate protection for the commons in three important areas: it provided no remedy against illegal enclosures, it favoured enclosure rather than regulation (which left the common open) and, "it did not sufficiently secure the interest of the labouring class in case of enclosure".[40] These arguments were also presented by Fawcett. He also advanced more detailed criticism. The clause governing the time of the public inquiry, he maintained, was inadequate:

> One of the most fruitful sources of injustice to the rural poor arose from the fact that whenever an Assistant Commissioner went down to a place to hold an inquiry he held it at 11 or 12 o'clock or at an hour of the day when the poor were at work and could not possibly attend to state their objections.... The Bill said that the inquiry

> should be held at a "suitable time". Suitable to whom? To the landowner or the Assistant Commissioner himself? It did not say it was to be suitable to the poor.[41]

Because of Fawcett's vigilance, the Act stipulated that at least one of the public meetings was to be held in the evening. He also questioned the provision whereby enclosure schemes approved by the Enclosure Commissioners could be examined by a parliamentary committee; "it would be cumbrous and difficult", he said, "for such a committee to determine what should be the exact amount of common reserved for the public and the poor".[42] In short, the committee could not offer sufficient protection for the public interest. Despite these objections, however, Shaw-Lefevre and Fawcett voted in favour of the Bill as it was an improvement from the Enclosure Act of 1845.

The chief supporter of the right of unrestricted enclosure was Frederick Knight, who was described by Dilke as "the greatest encloser in the country". Knight argued that the Bill permitted a dangerous encroachment on the rights of private property; if the owners of rights in commons "were invaded by Parliament in favour of what the hon. Member for Reading [Shaw-Lefevre] called the public, he would ask what corporate property would be safe for a twelve months after such a precedent".[43]

The Bill received no real opposition in the Lords. The Duke of Richmond and Gordon introduced the Bill in the following fashion:

> If they [the lords and commoners] are unsatisfied with the existing state of things and if they want to come to Parliament to obtain a remedy, we do not think it unreasonable that in the interests of the public, the health

> of the people, and on general sanitary grounds, some arrangements should be made with them for the comfort and enjoyment of the poorer classes.[44]

The only concern of substance was for the provision which enabled local authorities to contest enclosures made within a certain distance of towns. The Lord Chancellor "could not sanction the general principle that private rights should be contested by means of public funds", and Richmond also thought the provision "undesirable and unjust".[45] It was therefore dropped.

The Enclosure Procedure. The enclosure procedure outlined in the Act took some care to ensure that information relevant to the proposed enclosure, both as to private and public interests, was laid before the Enclosure Commissioners. The Act also contained statutory provisions for the benefit of the neighbourhood. Clause 7 stipulated that:

> In any provisional order in relation to a common, the Enclosure Commissioners shall, in considering the expediency of the application, take into consideration the question whether such application will be for the benefit of the neighbourhood, and shall, with a view to such benefit, insert in any such order such of the following terms and conditions...as are applicable to the case; that is to say,
>
> (1) That free access is to be secured to any particular points of view; and
> (2) That particular trees or objects of historical interest are to be preserved; and
> (3) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the commons; and
> (4) That carriage roads, bridle paths, and footpaths over such common are to be set out in such directions

as may appear most commodious; and
(5) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

These provisions anticipate in a remarkable fashion the concern for 'amenity' in modern planning practice.

Special provisions were made for commons within six miles from the centre of towns of 5,000 inhabitants or more. In the case of these suburban commons, the urban sanitary authority could attend the local inquiry and also appear before the Commissioners to make "such representation as they may think fit with respect to the expediency or inexpediency of such application, regard being had to the health, comfort, and convenience of the inhabitants of the town".

The enclosure procedure was initiated by an application to the Enclosure Commissioners from persons representing at least one-third of the interests in a common. The applicants then had to furnish information about the common and the locality and justify why an enclosure is "expedient when viewed in relation to the benefit of the neighbourhood". If the Commissioners, on the basis of the information so far received, considered that a prima facie case had been made for enclosure, they were to order a local inquiry to be held by an assistant Commissioner.

The assistant Commissioner was to inspect the common and convene one or more public meetings, "at a suitable time and place for securing the attendance of the neighbouring inhabitants, and of all persons

claiming interest in the common". At least twenty-one days notice of a meeting had to be given and one meeting at least had to be held in the evening. The assistant Commissioner then had to present a full report of the inquiry and his inspection to the Commissioners.

If the Commissioners decided that enclosure was justified, the next stage was to frame a draft provisional order of enclosure. This was to include such of the statutory provisions for the benefit of the neighbourhood "as are applicable to the case". The draft provisional order was then to be deposited in the parish in which the common was situated in order that it may be "considered by the parties interested therein". At the same time, notice was to be given in such a manner as the Commissioners "think best calculated to ensure publicity", of the intention to certify the order if persons representing at least two-thirds in value of the common assented to it.

The final stage consisted of Parliament's confirmation of the provisional order. The Commissioners were to prepare a report "in such manner as they think best adapted to enable Parliament to judge of the expediency of such [an] order. The provisional order was then examined by a committee of either House which could require modifications to be made. If no changes were required, the order would be duly confirmed by Act of Parliament.

Evaluating the Act. The Commons Act of 1876 can be seen in one respect as the culmination of the development of the concept of the public welfare with regard to the commons. In the eighteenth and early nine-

teenth centuries, enclosure, by permitting a more efficient system of agriculture, had been justified as a means of adding to the national wealth, but the benefits to the public from enclosure were diffuse and certainly not readily apparent at the level of the individual or the small group. On the other hand, the costs to the public of enclosure were immediate and readily apparent. Beginning with the Enclosure Act of 1836, the public interest in the preservation of the commons began to have statutory recognition. With the Commons Act of 1876, this development reached its logical conclusion, namely, that in principle, the expediency of enclosure was to be judged by the criterion of the public welfare.

The public welfare was defined in the 1876 Act as "health, comfort and convenience". The commons and the public welfare were conceived in the same terms as Roebuck had presented. The commons were to promote the physical and moral welfare of the public by providing an opportunity for healthy exercise and the contemplation of the refining influences of nature.

The Act represented an increase in the power of the State over private rights in that the process of enclosure was to be regulated by consideration of the public welfare. The Act also continued the centralization of power instituted by the Enclosure Act of 1845, whereby a centrally appointed body ruled on enclosure applications from all over the country. Equally, the considerable powers granted to the Commissioners and their assistants were continued from the Act of 1845. In fact, the 1876 Act put the elected representatives

at both the local and the national level at a considerable disadvantage. The local authorities had no powers whatever with respect to enclosures. At the most, local authorities of towns of a certain size could make representations to the Commissioners if a common was proposed to be enclosed in the vicinity of the town. Only a parliamentary committee could amend the decision of the Commissioners and, even then, the information on which the committee based its decision was prepared by the Commissioners with the help of their assistants.

At the same time, public participation was a necessary part of the Act. Through the statutory public meetings, people could express their opinions about the proposed enclosure. This public 'input' was to be 'considered' when the Commissioners prepared their decision as to the enclosure, which means that the public role was purely advisory, as it still tends to be in today's planning process.

Enclosure After the Commons Act of 1876

Of the thirty-eight enclosure schemes awaiting parliamentary approval before the Commons Act of 1876, only eighteen were subsequently recommended for approval. In the period 1878 - 1893, only twenty-four commons totalling 26,500 acres were enclosed, out of which 800 acres were allotted for public purposes - a ratio of one 'public' acre to thirty-three 'private' acres, which compares very favourably with that in the period 1845 - 1869 which was one to one hundred and sixty. Since 1893 no commons have been enclosed.[46]

Further Recreational Legislation

In addition to commons legislation, further legislation was introduced for the purposes of public recreation. The Open Spaces Act of 1887 extended, to a national level, the provisions of the Metropolitan Open Spaces Acts of 1877 and 1881. The Act enabled a two-thirds majority of the owners of commonly-held land such as a private park in a residential district, to give it to the local authority as a public open space. The Footpaths and Roadside Wastes Bill of 1888, introduced by Shaw-Lefevre, enabled the local highway authority to "maintain and improve the public footpaths...in a proper state for the use of the public". One of the provisions allowed the authority to supply, at a price, "copies of maps delineating the walks". The Bill, however, was dropped without debate. Some public recreation Bills sought to challenge private property rights in the name of the public welfare. The Welsh Mountain, River and Pathway Bill of 1888, for example, provided that "the public shall have free right to enter upon and have access to mountain land, moor or waste land... or any river, stream, or lake...for the purposes of recreation, wimberry gathering, scientific inquiry, sketching or antiquarian research". The Bill was accorded a short debate before it was dropped. It was opposed by the member for Caernarvon who exclaimed that although the lodging-house keepers might wish to have lots of people visiting Wales, he "could not understand how any other residents could possibly benefit by allowing people to come in vast numbers and overrun the mountains and lakes".[47] Most of these types of Bills were dropped

without debate, and if the 1888 Welsh Mountain, River and Pathway Bill is any indication, they were probably regarded as an unwarranted intrusion on private property rights.

It was not until the National Park and Access to the Countryside Act of 1949 that effective provision was made for public access to the countryside.

SMALL HOLDINGS AND ALLOTMENTS

In the 1880s, land reform became a central and pressing issue, though, as one historian has observed, it has not received the attention it merits.[48] The land reformers were by no means a united group but they were all agreed that the land was owned by too few people.[49] This unequal distribution of land, the reformers argued, had far-reaching and serious social consequences. As Perkins writes: "There was scarcely a social problem, from rural hovels and village pauperism to the slums, drunkenness and moral degradation of town life, which reformers did not place at the landlord's door".[50] There was little agreement, however, as to the solution. A minority wanted some form of land nationalization, while a majority sought solutions which recognized the principle of private property. One branch of the land reform movement was the agitation for garden allotments and small holdings. From the early 1880s, there were numerous Bills introduced in Parliament to establish, by means of State intervention, a small-holding class.

This legislation reflected two related concerns which stemmed from the continuing process of urbanization. One concern was that

urbanization was destroying the rural order, to the nation's ultimate harm, for it was regarded as a sustainer of valuable qualities (though they were never clearly elaborated), as well as a source of food. The second concern, which became increasingly emphasized, was that the people's health was being weakened in the cities. To remedy this twofold concern, legislation was enacted which interfered with private property rights in the name of the larger public welfare.

Preserving the Rural Order: The Allotments Act of 1887

A leading proponent of allotments and small holdings was Jesse Collings.[51] He introduced the first allotments Bill in 1882 and was still attempting to legislate for small holdings into the early years of the 1900s. The 1882 Bill required the trustees of charitable and common lands to rent that land to labourers and cottagers in small lots, instead of larger areas to farmers and others. Collings claimed that his proposal was supported by many rural clergymen and "others", who were concerned at their districts becoming depopulated. He went on to say that "it was daily becoming more and more evident that, unless something of this kind were done, the redundant populations of the towns would increase at an alarming rate, while agriculturalists would lose the labour that was required for the cultivation of the land".[52] Arthur Arnold, who also spoke in support of the Bill, described the virtues of a small-holding class, "with its habits of thrift and industry, which were so valuable to all classes of the community".[53] The Bill received little opposition and became law as the Allotments Extension Act of 1882.

In 1886, Collings introduced an Allotments and Small Holdings Bill. Its purpose was to enable local authorities, when convinced that there was a demand for allotments and that land was not being made available at a reasonable cost, to purchase or hire land, and if necessary purchase it compulsorily, for letting to tenants. The Bill was accorded a short debate before being dropped without a second reading. The best defence was offered by Dr. Foster:

> It was the best Conservatism to support a Bill of this character, for it would have the effect of bringing back and keeping the agricultural classes in the rural districts. They were the backbone of the country [but fast disappearing].... The purpose of the Bill was to cheer and stimulate the efforts of the industrious labourer by giving him an opportunity of adding to his earnings by the cultivation of an allotment.... It proposed to take no land except under conditions which were necessary to the welfare of the community. The interests of the community demanded that in certain cases there should be individual sacrifice for the common good.[54]

The following year Collings introduced an amended version of his 1886 Bill. It received a fairly long debate but was passed without too much alteration as the Allotments Act of 1887. The debate indicated a general agreement that there should be more allotments for the rural poor and to achieve this the principle of compulsory purchase was reluctantly agreed to as a necessary evil. The social purpose of the Bill was explicitly presented in terms of efficiency. Here is Charles Ritchie, the President of the Local Government Board:

> They [allotment gardens] are, rightly used, a valuable means of education, a means by which the working classes may elevate themselves into a position of manly independence by industry and sobriety which will be greatly beneficial to themselves, their employers, and the whole

> community, whose interests are very much wrapped up in the interests of its individual members.[55]

In a similar vein, the Earl of Onslow said: "There was nothing which tended more to make a peasantry happy and contented, and to secure their adhesion to the principle of property, than the ownership or occupancy of a small plot of land."[56] On the subject of compulsory purchase Ritchie said that "we are reluctantly compelled to admit that unless some remedy is provided against the action of the unreasonable landowner who prevents the carrying out of a public benefit, the Bill will be incomplete".[57] Lord Bramwell also argued that there was as much right to take land compulsorily at a fair price for the purpose of allotments as for any other public purpose. It was in reference to the principle of compulsion for the benefit of the community that Sir William Harcourt remarked, 'happily we are all Socialists now.... Lord Salisbury speaking at Newport said, "whatever you have you must not have compulsion". That was the one principle that the Conservative Party...never would listen to at all.'[58]

The Operation of the Act. The Act was put into operation by a written petition from any six parliamentary electors or local ratepayers, declaring that the circumstances in the district were such that proceedings under the Act were necessary. If, after a local inquiry, the local authority was of the opinion that there was a demand for allotments in the district and that allotments could not be obtained at a reasonable rent by voluntary arrangement, the local authority was to purchase or hire a suitable amount of land. The allotments, which

were to be let to tenants, were not to exceed one acre per person. The local authority was not to purchase land for this purpose unless it was of the opinion that all the expenses, save the cost of making public roads, would be recompensed through the rents charged to the tenants. If the authority was unable to acquire land by agreement, provision was made for compulsory purchase by means of a provisional order prepared by the Local Government Board.

Tentative Small Holdings Legislation

Within five years of the Allotments Act of 1887, provision was made for local authorities to purchase by voluntary arrangement, larger parcels of land to sell or let for small holdings. A measure was also taken to make the 1887 act more effective.

In 1888, Collings introduced a small holdings Bill that extended the provisions of the 1887 Act to permit the compulsory purchase of parcels of land up to fifty acres in size. This Bill, however, was dropped without a second reading.

In 1890 Ritchie introduced a Bill which was passed as the Allotments Act of 1890. The Act provided for an appeal from the decision of the sanitary authority in connection with the Allotments Act of 1887. Any six persons qualified to make a representation to the local authority under the Act of 1887 could petition the County Council (established by the Local Government Act of 1888 and based on a broad franchise), if they thought the sanitary authority had failed in its duty.[59] The County Council was empowered to conduct a local

inquiry and if satisfied of the validity of the complaint, to carry out the Act of 1887 at the expense of the sanitary authority. The long debate that accompanied the Bill indicated a general agreement that rural England should be preserved and the migration to the towns halted. The Earl of Kimberley, for example, stressed the benefits of a stable agricultural class:

> I am certain that it is to the interest not merely of the labourers themselves but of all landowners, because I believe that anything which attached the labourer more to the place in which he lives and makes him willing to remain there is beneficial, and that you thereby strengthen altogether the whole framework of society in that part of the country.[60]

The Commons debate contained similar views but, in addition, an attempt was made to determine the effectiveness of the Allotments Act of 1887 upon which Ritchie's Bill was introduced. Ritchie said that the proper board of appeal was the County Council because it was elected on a broader franchise than the sanitary authority. He claimed that 1,800 allotments had been provided by the action of local authorities under the Act but he did not distinguish between compulsory purchase and voluntary purchase. Harcourt said that there had been only five cases of compulsory purchase in 1889, while Sir Frances Channing claimed that no land had been purchased compulsorily and that Ritchie had obtained his figures from the Rural Labourers League, "a nondescript and mongrel body".[61]

The following year, Collings again introduced his Small Holdings Bill, but this time there was no provision for the compulsory purchase of land. Collings advanced the Bill as a measure against the develop-

ment of doctrines such as communism and land nationalization:

> We are having strange doctrines taught up and down the country at the present time.... In France, in the large towns... [extreme] doctrines are rampant; but outside the large towns those doctrines have not made a yard of progress simply because they are met by millions of men with some property.[62]

Despite this argument, the Bill was not given a second reading. But the next year, Henry Chaplin, representing the Government, introduced a Bill similar to that of Collings', which became law as the Small Holdings Acts of 1892. The County Councils were to form a standing committee to determine whether local conditions required the operation of the Act and were empowered to acquire land and sell or let it for small holdings. There was no provision, however, for compulsory purchase.

The Necessity for Stronger Legislation: The Small Holdings Act of 1907

Several small holdings Bills were introduced by Collings and others after 1892, but it was not until the Small Holdings Act of 1907 that further legislative provision was made. The Act was prompted by the Report of the Select Committee on the Housing of the Working Classes Acts Amendment Bill of 1906, which concluded that the problem of urban overcrowding was mainly caused by the migration of the rural population to urban areas. It was crucial that this movement to the cities be halted, for it was widely believed, and this is clearly evident in the housing debates, that the conditions of urban life were destructive of health. To diminish this flow to the cities, it

was evident that opportunities for the rural population would have to be improved and that stronger legislation to this end was necessary.[63] The Act of 1907 was such a response. It provided for the compulsory purchase of land for small holdings, it extended the process of centralization, and increased the powers of appointed experts.

The prime motivating reason behind the desire to stop the migration of the rural workers to the towns was the fear of the British race deteriorating in the towns and cities, which was still very real if Hansard is any indication, despite the Report of the Inter-Departmental Committee on Physical Deterioration in 1904, which concluded that there was no evidence of cumulative physical deterioration.[64] Very early in his speech, Harcourt referred to the harmful effects of urban conditions accompanied by poverty:

> But that depopulation has been bad for the country and that over-population has been bad for the towns no one will attempt to dispute. The physical degeneration which accompanies and which, in my opinion, is caused by urban poverty is too sadly patent to us not only in the pages of Blue-books, but in every experience of our daily life. If this or any other measure can stay the townward stream of humanity, it is worth trying at any cost.[65]

Collings described the problem of rural depopulation as the nation's most serious issue: "It was not a political question and ought not to be a Party question. It was a question of life and death to the nation - one to which every other question was second".[66] Foster connected the issue of rural depopulation and physical deterioration with the image of national greatness:

> But the depopulation of rural districts was closely connected with another grave evil - the physical deterioration of the population. If we wanted to maintain our position as a great, powerful - and what was so often in the mouths of hon. Gentlemen opposite the Conservatives - an Imperial race, it was essential to have a large resident agricultural population connected with the land.[67]

He also gave expression to an essentially Romantic belief in Nature, in hoping "that this Bill would be the means of getting the people in close and permanent contact with the land so that they might renew their strength".[68] Robson, the last speaker before a vote was taken on a proposal to commit the Bill to a Committee of the whole House (the proposal was voted down), gave one of the most explicit descriptions of the rationale behind the Bill:

> But there was another consideration than the economic one [the availability of agricultural workers] which ought to be paramount in the mind of the House, and that was the health and virility of the race.... He should think himself that there could be no doubt at all as to the enormous physical advantages of those who lived in the country as compared with those who lived in the towns. The wholesome life of the farm or the garden, the daily work in pure air, the natural life away from smoke and the din of factories, maintained an element of our population which was worth preserving.... We had generation after generation growing up under conditions which made for the physical decadence of the race. In industry and in war we must rely on the physical efficiency of the people; and, those who would be most responsible for the evil results of physical decadence would be those who obstinately adhered to a landed system under which the cultivators of the soil could make neither a subsistence nor a decent career.[69]

The physical efficiency argument, then, was the most prominent feature of the rationale behind the Bill, though it was not unanimously adhered to. Arthur Balfour, as leader of the Conservative Party, rejected the identification of physical deterioration with urban life and criticised the assumption that the urban health problem was beyond remedy:

> It is a lamentable fact, if it be a fact, that the whole future physique of our race depends upon the agricultural labourer, who, we are told, is working under degrading conditions. If we are going to acquiesce in giving up the problem of having an urban population, which problem we have to solve, if we cannot deal with the health of the population of our great towns so as to prevent them from being, as we are told, sources of hereditary diseases, then, indeed, the resources of British civilisation are bankrupt, and I think it would be the first duty of this House to check the growth of big towns and artificially to stimulate the population of the country by laws deliberately intended to be protective, and deliberately intended to keep the population there at whatever cost to the community at large. But I cannot admit this bankruptcy. I cannot admit this bankruptcy of our civic life. I do not think it wise for hon. or right hon. Gentlemen to make these appeals to us about the physique of the race unless they are prepared to prove that urban life is inconsistent with the maintenance of that physique.[70]

There was also some opposition to the centralizing tendencies of the Bill which empowered Commissioners appointed by the Board of Agriculture to investigate the demand for small holdings and allotments, to consider schemes put forward by the county or borough councils, and, in default of such schemes, to carry out schemes at the local authority's expense. Walter Long argued that the local authorities were the best judges of the local situation, while Collings protested that:

> The power of the Commissioners in the Bill was a monstrous proposition which would not be accepted in any country in Europe except Russia. Were they going to allow a central body to overide the wishes of the elected members of a local authority and make the ratepayers of that locality pay for which their elected representatives were opposed?[71]

The Provisions of the Act. Despite the length of the debate, the Bill was passed essentially in the same form as Harcourt had introduced it. The Small Holdings Act of 1907 incorporated, with minor changes, the Acts of 1887 and 1892. The main part of the Act, though, was concerned with the powers of the Small Holdings Commissioners. The Board of Agriculture was to appoint two or more salaried Commissioners, "knowledgeable of agriculture", to assume the main responsibility for promoting small holdings. The Commissioners were to determine the demand for small holdings throughout England and Wales. The country and borough councils could make representations to the Commissioners. The Commissioners were to report their findings to the Board of Agriculture which would decide whether a small holdings scheme was necessary. The Act, though, contained no criteria with which to guide the Board in this decision. If the Board decided to implement a scheme it would direct the local authority to submit a draft scheme to the Board for its approval. The scheme was to indicate the locality of the proposed small holdings, the quantity of land involved, details of each holding, the length of time the scheme required and other relevant information. To obtain land for small holdings, the local authority could purchase land voluntarily, or if necessary, compulsorily. The purchased land would then be leased to tenants, an arrangement that

Collings, with his desire to see a freehold yeoman class, strongly criticized. The local authority could forward a scheme on its own initiative. Every county council was to establish a small holdings and allotments committee of which the council members were to form a majority. The approved draft scheme was published along with information as to the manner of voicing objections. If a local authority objected to the Board's scheme or if the Board objected to that of the local authority's, a public local inquiry was to be held. The Board, however, ruled on the results of the inquiry. Furthermore, the Board could approve a small holdings scheme without reference to Parliament, though it was required to present to Parliament a yearly report on the work of the Commissioners.

Evaluating the Act. Judging from the debate, the rationale for the Bill was based primarily on a desire to preserve the nation's physical efficiency by encouraging rural workers to remain in the country away from the urban areas which were seen as destructive of health. This provided a sufficient rationale to enact powers of compulsory purchase over private property. The Act also represented a significant increase in centralization through the powers of the Board of Agriculture and the Small Holdings Commissioners over the local authorities. Previously, there had been no provision for central direction in the case of small holdings. These same powers also increased the power of the non-elected officials at the expense of the members of Parliament, for the schemes of the Board did not require Parliament's approval.

CONCLUSION

Several themes are evident in this diverse array of legislation. First, each of the four areas of legislation conceived the public welfare in exactly the same utilitarian terms as the housing legislation. The public welfare was identified with efficiency, and it was on this basis that State intervention in private rights proceeded. Second, this legislation reinforced the housing and town planning legislation with its concern for a healthier and 'improved' environment. Public health and pollution control measures were directly aimed at improving environmental health. The preservation of commons provided areas where the city's inhabitants could recreate themselves physically and morally, and small holdings legislation sought to limit the movement of the rural population to the cities, thereby reducing urban overcrowding. Third, as in the housing and town planning legislation, there is a tendency for the State to intervene in private rights to a greater extent when the public welfare is more clearly defined. This is evident in the public health and pollution control legislation. Everyone stood to benefit from a sanitary urban environment, and legislation was accordingly enacted to impose detailed sanitary regulations governing urban development. But in the case of pollution control, the public interest was not so clearly evident, and the result was limited and ineffective legislation. Similarly, small holdings legislation became more stringent when the 'urban problem' appeared to be worsening.

Finally, an increase in centralization and the power of the non-elected officials is clearly evident in the legislation. The contemporary significance of this development is best illustrated by the example of the Enclosure Commission under the Commons Act of 1876. The officials of that Commission were the first modern State-employed planners in the sense that they exercised what is still the planner's statutory directive - to arbitrate for the public welfare, on decisions regarding the physical environment. But the implications of the planner's work have increased enormously. The issues raised by the enclosure process instituted in 1876 lie at the centre of the debate on the proper structure of the planning process in a democratic technical society. In essence, it concerns the relationship between the technicians and the politicians in the planning process.

The planning process in 1876 placed the initiative and the advantage with the planners. They gathered the information, corresponded with the promoters of the enclosures, decided whether an enclosure should be permitted or not, awarded claims, and prepared the enclosure plan. The enclosure plan was then submitted to a parliamentary committee for approval. If the committee chose to amend the plan, the information on which the committee based its decision was prepared by the planners. In the particular case of the enclosure of commons in 1876, the relative simplicity of the factors involved and the limited demands of the relevant Act, enable the elected members of Parliament to comprehend the essentials of each case if they desired to. Today, the

relationship in the formal political process between the planner and the politician is the same as it was in 1876 - the planner advises and the politician decides - but the complexity of our technical society, which necessitates certain developments (which have fundamental affects on our lives), is such that the information behind each plan (prepared by teams of specialists), made to accommodate these necessities, is of such complexity and amount that the politician is no longer capable of sufficiently comprehending the boundaries and the implications of the plan, and thus, is no longer in a position to make an independent and technically valid decision. In essence, "the politician finds himself inside a framework designed by technicians".[72] This tremendous growth of the planner's domain has far-reaching and decisive implications for a true democracy. It demands a critical examination of the commonplace expressed by planning theoreticians and academics that planning, far from being antagonistic to democracy, is actually indispensable to democracy and a necessary condition of freedom.

NOTES AND REFERENCES TO CHAPTER V

1 Hansard, third series, (1875) CCXXII, 230.

2 ibid.,232.

3 ibid., CCXXIII, 1247.

4 ibid.,1250.

5 ibid.,1257.

6 ibid.,CCXXV, 642.

7 ibid.,642.

8 ibid.,644.

9 cited from L. Hill, 'The Municipal Service', in H.J. Laski, W.I. Jennings, W.A. Robson (eds.), A Century of Municipal Progress. London: George Allen and Unwin, 1935, p. 147.

10 The mortality rate was regarded as the prime indicator of the public health. The Annual Report of the Local Government Board published in 1882 contained the following statement; "We are glad to be able to add to our remarks of last year upon the steady improvement of the public health, as indicated by the progressive reduction in the death-rate". Parliamentary Papers, 1882, Vol. XXX, p. 123.

11 Hansard, third series, (1888) CCCXXXI, 1735.

12 Hansard, third series,(1890) CCCXLVI, 1235.

13 ibid.,1235.

14 Roy Macleod, 'The Alkali Acts Administration, 1863-1884: The Emergence of the Civil Scientist', Victorian Studies, Vol. IX, No. 2, 1965-66, pp. 85-112, places the growing regulation of the Alkali industry in the context of the growth of the State.

15 For a study of the attempt in the second half of the nineteenth century to purify the Water of Leith (which flows through Edinburgh) see P.J. Smith, 'Pollution Abatement in the Nineteenth Century: The Purification of the 'Water of Leith', Environment and Behavior, Vol. 6, No. I, 1974, pp. 3-36.

16 Hansard, third series, (1875) CCXXIII, 1887-1889.

17 ibid., CCXXLV, 545.

18 ibid.,565.

19 ibid., CCXXIII, 1888.

20 ibid., CCXXIV, 553.

21 Hansard, third series, (1876) CCXXIX, 1599.

22 ibid., CCXXXI, 282.

23 ibid.,283.

24 Hansard, third series, (1886) CCCIII, 1050 - 1051.

25 ibid.,1055.

26 ibid.,1056.

27 Hansard, fourth series, (1899) LXVIII, 228.

28 ibid.,236.

29 Smith, 'Pollution Abatement in the Nineteenth Century: The Purification of the Water of Leith', Environment and Behavior, p. 31. concludes that the example of the attempt to purify the Water of Leith is of contemporary significance; "The technology of pollution abatement is now highly advanced, but the political skills are scarcely more developed than they were in Victorian Edinburgh. The problems which bedeviled pollution control a century ago, both conceptually and procedurally, are still very much alive".

30 For a Summary of the debate on the Enclosure Movement see G.E. Mingay, Enclosure and the Small Farmer in the Age of the Industrial Revolution. London: The Macmillan Press, 1968.

31 See George F. Chadwick, The Park and the Town: Public Landscape in the 19th and 20th Centuries. London: The Architectural Press, 1966.

32 W.E. Tate, The Enclosure Movement. New York: Walker and Company, 1967, p. 187.

33 ibid.,p. 139.

34 Hansard, third series, (1876) CCXXVII, 189 and 193.

35 ibid., CCXXIX, 1396.

36 ibid., CCXXX, 131.

37 ibid., CCXXIX, 1525.

38 ibid.,1556.

39 ibid.,1558.

40 ibid.,CCXXVII, 527 and 533.

41 ibid.,541.

42 ibid.,CCXXIX, 1223.

43 ibid.,CCXXIX, 1240.

44 ibid.,1033.

45 ibid.,CCXXX, 1430.

46 Tate, The Enclosure Movement. p. 140.

47 Hansard, third series, (1880) CCCXXIV, 1288.

48 H.J. Perkin, 'Land Reform and Class Conflict in Victorian Britain', in J. Butt and I.F. Clarke, (eds.), The Victorians and Social Protest. Newton Abbot: David & Charles, 1973.

49 The official statistics on land holdings known as the New Domesday Book were published in 1876. They indicated that there were slightly more than a million owners of land in the British Isles (exclusive of London), of whom some 300,000 owned more than one acre. However, the land reformers discovered serious errors in the compilation of the official returns. G.C. Brodrick estimated that 4,000 owners of 1,000 acres of land or more owned nearly half of England and Wales and that 2,250 families owned nearly half the enclosed land. cited in Perkins, 'Land Reform and Class Conflict', ibid.,p. 185.

50 ibid.,p. 188.

51 Jesse Collings described his conception of rural life in The Colonization of Rural Britain: a Complete Scheme for the Regeneration of British Rural Life. London: Rural World Publishing, 1914.

52 Hansard, third series, (1882) CCLXIX, 942.

53 ibid.,943.

54 Hansard, third series, (1886) CCCIV, 400.

55 Hansard, third series, (1887) CCCXVII, 1303.

56 ibid.,CCCXX, 1531.

57 ibid.,CCCXVII, 1306.

58 ibid.,CCCXIX, 140.

59 For a study of local government reform in the late nineteenth century see J.P.D. Dunbabin, Historical Journal, VI, 1963, pp. 226-252 and ibid., VIII, 1965, pp. 380-398 and'British Local Government reform: the nineteenth century and after', English Historical Review, Vol. 92, (1977), pp. 777-805.

60 Hansard, third series, (1890) CCCSLVI, 786.

61 ibid., CCCXLII, 1762.

62 Hansard, third series, (1891) CCCLI, 657.

63 Sir W. Robson cited official figures which revealed that the Act of 1887 had resulted in less than 1,000 acres being purchased by agreement and only sixteen acres by compulsory purchase. A little over 1,000 acres were obtained by hiring. The Act of 1892, in operation for some fifteen years, had obtained only 800 acres. Hansard, third series, (1891) CLXXIV, 1440 -1441.

64 See pp. 89 - 91.

65 Hansard, fourth series, (1907) CLXXIV, 1378.

66 ibid.,1422.

67 ibid., CLXXV, 1626.

68 ibid.,

69 ibid.,1705 -1706.

70 ibid.,1643 -1644.

71 ibid.,CLXXIV, 1423 -1424.

72 Jacques Ellul, The Political Illusion. trans. Konrad Kellen, New York: Vintage Books, 1972, pp. 37 -38.

CHAPTER VI

CONCLUSION

The origins of the Housing, Town Planning, Etc. Act of 1909, can clearly be seen in the first Public Health Act of 1848, which sought, in however limited a way, to promote the public welfare, however narrowly conceived, through intervention with private rights in the urban environment. With this necessity for State intervention to secure the public health established, further intervention to secure the same end was inescapable, because it was soon evident that many factors influenced the public health. When slums were seen to pose a very real threat to the physical health and, to a lesser extent, the moral health of the community, action was taken in the form of the Cross Act of 1875 to secure the public welfare. The Act sought a collective end through large-scale, planned intervention in the urban environment and private property rights. This was decisive, because this intervention signified the real beginning of town planning as a technique of the State, and it was in this utilitarian context that town planning received its real identity. Indeed, it can be said that town planning, as a means of intervening in the urban environment for the public welfare, was conceptually mature with the Cross Act of 1875.

Two related themes arise out of this intervention. One concerns the conflict between individual rights and collective purposes that was inherent in pursuing the public welfare through intervention in the

physical environment. The second concerns the conception of planning that developed out of the nineteenth-century utilitarian pursuit of the public welfare.

By 1875, the public health was an indisputable concern of the State. In the following decades, a utilitarian concern for the moral welfare of the public was also expressed through State intervention in the urban environment. This concern is evident in five areas of legislation: housing, public health, pollution control, commons and outdoor recreation, and small holdings. To an increasing extent, this legislation restricted individual rights, furthered the process of centralization, and extended the power of the expert official, in the name of the public welfare. Obviously, these trends were in conflict with established notions of individual and political freedom, but they were nevertheless furthered by the legislators. The utilitarian rationale that State intervention would promote economic and social efficiency to the undisputed benefit of the nation, overwhelmed opposing ideologies such as laissez-faire, and political principles such as the belief in local autonomy. Clearly, however, the opposition to State intervention was not overcome in a single encounter. The legislation indicates that where the public interest could not clearly be determined, weak measures were enacted. But where the legislators agreed that a single public interest could clearly be served by a policy of intervention, strong measures, such as the Cross Act of 1875, were enacted with comparatively little hesitation. Through increasing documentation, such as the Royal Commission on housing in

1885, and the work of the social investigators, influences on the public welfare were ever-more clearly defined, and further State intervention was necessitated.

The Housing, Town Planning Act of 1909 signified a further extension of State intervention to further the utilitarian conception of the public welfare. In the housing and small holdings debate, a clearly evident tension was expressed between the countryside and the city. The countryside was healthy but becoming increasingly depopulated through migration to the unhealthy and ever-more crowded urban areas. This dichotomy explains the compelling appeal of Ebenezer Howard's Garden City concept, which sought to combine in a specific and separate settlement form, the best of country and city.[1] The Garden City concept was utilized and altered by the early planners, and by Raymond Unwin in particular, who concentrated on designing low-density suburban development incorporating curved roads, and trees and other greenery. In other words, with its emphasis on healthy low-density development, the garden suburb design offered a utilitarian alternative to conventional high-density urban development. The Housing, Town Planning, Act of 1909 sought to facilitate the use of this utilitarian form of urban design. The Act signified no new beginning, no essential change from the utilitarian tradition of reform; town planning was no more than a technique for building "healthy homes for working men".

The utilitarian rationale of the Cross Act identified the public welfare with efficiency which could be clearly measured by the lowered social and economic costs of disease. The value of efficiency, which impelled increasing State intervention throughout the nineteenth century, and sustained the developing planning movement, continued as the unquestioned instrument of the public welfare in the twentieth century. This is particularly evident in the developing planning movement in Canada and the U.S.A.

After an ephemeral and indulgent interest in the City Beautiful at the turn of the nineteenth century, planning in North America pursued efficiency with a vengeance, and the City Efficient became the dominant image.[2] In Canada, this outlook was encouraged by the Commission of Conservation, established in 1910 to ensure that the government had the best technical advice on resource management - including the most valuable resource, people - in the name of the national good. Concern for environmental health conditions prompted an interest in town planning as a means of promoting the public health. To promote town planning, the Commission, in 1914, employed Thomas Adams, a prominent British planner who had just become the first President of the British Town Planning Institute. Under the leadership of Adams and Dr. Charles Hodgetts, the Commission's advisor on public health, town planning was conceived in exactly the same way as Chadwick viewed intervention with the urban environment in the 1840s. "Utilitarianism", writes Smith, "was unrepentant and unrefined and continues so to this day".[3]

This orientation is of crucial significance, because planning's domain has since increased immeasurably, but its values have not adapted to accord either with its enlarged sphere of activity, or its enlarged powers. The application of the utilitarian ethic, and the pursuit of efficiency, is a legitimate activity in the promotion of a clearly defined collective end such as the public health. But modern town planning has enormous influence on the social environment, and here, the conception of planning as a technical activity centred on determining the "one best means" for solving urban problems, is increasingly inappropriate.

The tension and conflict generated by the application of planning is described in a huge body of writing.[4] A particularly relevant example is Jon Gower Davies's, The Evangelistic Bureaucrat (1972). Davies studied the influence of planned urban renewal in a British town. The planning, he noted, was conceived as a technical activity. But the planners' intervention created many problems in the life of the community and its members. Writes Davies: "To describe these problems as 'technical', and to accord technology an independent moral authority is to turn technological progress into social oppression while at the same time being able to avoid having to face up to the fact that this is what is happening".[5] Some new foundation for planning is demanded. The whole of society, of course, would have to adhere to this foundation. But in a technical society, what can replace technique? Ellul's analysis of the technical nature of our society has crucial implications for planning which demand attention.

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2 See Mel Scott, American City Planning Since 1890. Berkeley: University of California Press, 1969.

3 P.J. Smith, 'The Principle of Utility and the Origins of Planning Legislation in Alberta, 1912-1975', in Alan F.J. Artibise and Gilbert A. Stelter (eds.), The Usable Urban Past: Planning and Politics in the Modern Canadian City. Toronto: Macmillan of Canada, 1979, p. 196.

4 See, for example, Jon Gower Davies, The Evangelistic Bureaucrat. London: Tavistock Publications, 1972; Robert Goodman, After the Planners. Harmondsworth: Penguin, 1972; and J.M. Simmie, Citizens in Conflict: The Sociology of Town Planning. London: Hutchinson Educational, 1974.

5 Davies, The Evangelistic Bureaucrat, p. 4.

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